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# HISTORY OF ENGLAND.

1603—1616.

VOL. I.

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# HISTORY OF ENGLAND

FROM

THE ACCESSION OF JAMES I.

TO

THE DISGRACE OF CHIEF-JUSTICE COKE.

1603—1616.

BY

SAMUEL RAWSON GARDINER,

LATE STUDENT OF CHRIST CHURCH.

IN TWO VOLUMES.

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## PREFACE.

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I CANNOT pretend that the period of history which I have made the object of my especial study is possessed of that striking dramatic interest which is to be found elsewhere. But I have long thought that, to the real student of history, there are few years which are more attractive than those which followed immediately the death of Elizabeth. They are interesting to those who would trace in the Stuart King and in the Stuart Parliament the outcome of those great principles which lay at the basis of the harmonious working of the Elizabethan Constitution. They are still more interesting to those who wish to understand the great struggle of the seventeenth century. Indeed, it is not too much to say, that if it is possible for those who begin their study of the English constitutional struggle at any later date to arrive at sound conclusions with respect to the principles at stake, it is utterly impossible for them to judge the actors fairly. It is only after investigating the circumstances under which certain dominant ideas have arisen, that it becomes possible to enter into the feelings of those who entertained them, and even approximately to draw the line which separates a blunder from a crime. It is for this reason that the first fourteen years of James I. are especially worthy of study. At the end of 1616 the Constitution, at least in the minds of the supporters of the Crown, had assumed that form which was always defended by them in the course of the

ensuing conflict as the true Constitution of the country. The prerogative had established its claim to be considered as the regulating part of the machinery. The sittings of Parliament had been suspended without any immediate prospect of their renewal. The judges had been taught, by a practical example, that they held their offices only at the good pleasure of the Sovereign. In short, these thirteen years and a half were years of constitutional change, no less real because it was carried on within the letter of the Constitution. It was in them that the weapons were forged which were to be used by James and his son, with such unfortunate results for themselves.

Up to the summer of 1616, it was a question what constitutional powers the Crown would be able to assert. At the end of the year the question was, what use would be made by it of the powers of which it had obtained possession. Nor is the date of Coke's deprivation less distinctly marked in other respects as the commencement of the period of the full-blown Stuart royalty. At home, the monopolies, which had hitherto been kept under some kind of restraint, were about to burst forth with the help of the favouritism of Buckingham and the Protectionist theories of Bacon. On the Continent, the French alliance had just been renounced, and James was nibbling at the bait of a Spanish marriage for his son. In Scotland, the future Five Articles of Perth had been recently sent down in a letter from London; and in Ireland, the arrival of St. John, as the new Deputy, had convinced the Catholics that all hope of an amelioration of their position must be abandoned for the present.

The part of my narrative which has caused me more difficulty than any other is that which relates to the character of the Earl of Salisbury. What those difficulties are will be found stated in the work itself; but I wish to guard my readers against looking upon what

I have said on this subject as having any pretensions to be more than a mere hypothesis, and to ask them to suspend their judgment till the Archives of Simancas have been ransacked, and the day has come, which Dr. Birch was hoping for in the middle of the last century, when the treasures of the Hatfield Library shall be accessible.

I have contented myself, in general, with merely indicating my authorities. To have quoted them at length would have added enormously to the bulk of the book; and, after all, experience has taught me that no quotations are sufficient to save an honest inquirer from the trouble of looking into the original documents. The question of the truth and falsehood of any statement often depends quite as much upon the silence of one witness as upon the assertion of another.

Many a well-known anecdote will be missed from these pages. The great mass of the anecdote-mongers, with Weldon at their head, are so thoroughly untrustworthy that the total omission of all such stories, however amusing, excepting when they can be authenticated from some other source, seems the preferable course. Of all these offenders Weldon is incomparably the worst. I believe there is not a single instance in which his assertions can be in any way tested, in which they cannot be shown to be, if not downright lies, at least recollections so distorted as to be utterly worthless for the purposes of history.

It is impossible for me to close this preface without expressing my warmest thanks to Mrs. Green, for the invaluable assistance which I have derived from her Calendar of the Domestic State Papers. If I had not had the results of her labours before me, the difficulties which I should have met with in my own work would have been almost insuperable. Her accuracy is too well known to need any testimony from me; though I suppose that there are few, if any, who have had the opportunity of testing it so thoroughly. My thanks are also due to

Mr. Hamilton for the use of his MS. Calendar of the Irish Papers of the period, and for the obliging assistance which he has always been ready to afford me, whenever I have wished to consult him. I regret that Mr. Sainsbury's Calendar of the East India Papers was published too late to be of any service to me, further than to enable me to add proper references to one or two papers which he kindly brought before my notice some months ago.

Although it will be seen that I have ventured to differ in some particulars from the late Mr. Jardine, yet, on the whole, he has made the Gunpowder Plot so entirely his own, that I had little more to do than to abridge his narrative. So completely had he extracted from the documents all that was worth preserving, that there was nothing for it but to tell his story or to omit the subject altogether. Under these circumstances, the only course open to me was to borrow largely, and, at the same time, to acknowledge the obligation.

I do not think that I have explained in my notes that the abbreviation, G. P. B., refers to the so-called 'Gunpowder Plot Book,' which consists of documents bound up separately from the rest of the State Papers. All the other abbreviations will, I believe, be intelligible of themselves. Wherever Bacon is quoted simply as 'Works,' the reference is to the new edition of Messrs. Ellis, Spedding, and Heath. I heartily wish that the appearance of Mr. Spedding's forthcoming volumes had made this form of reference more frequent in my notes.

In my attempt to tell as much as I have myself been able to learn of the story of this period, it is inevitable that I must often have failed to grasp the truth of which I have been in search. I trust that those who best know the difficulty of ascertaining the truth amidst conflicting evidence will be most lenient in their judgment of the errors which they may detect.

LONDON, *March* 1863.



# CONTENTS

OF

## THE FIRST VOLUME.

---

### CHAPTER I.

#### NATIONAL CONSOLIDATION.

	PAGE
1603. Death of Elizabeth . . . . .	1
Historical retrospect . . . . .	3
England before the Conquest . . . . .	3
The Norman Conquest . . . . .	7
The royal power . . . . .	8
The nobles and the people . . . . .	11
Aspirations of the Middle Ages . . . . .	11
Reign of Edward I. . . . .	15
The law courts . . . . .	16
The Parliament . . . . .	21
The feudal militia . . . . .	22
The clergy . . . . .	23
The friars . . . . .	24
Decline of the Papal power . . . . .	26
The King supported by the nation . . . . .	27
Wars with Scotland and France . . . . .	28
Wycliffe . . . . .	29
Revolution of 1399 . . . . .	31
York and Lancaster . . . . .	32
The Tudors . . . . .	32
Henry VIII. and the Reformation . . . . .	37
Edward VI. and Mary . . . . .	40
Elizabeth and the Catholics . . . . .	40
Imprisonment and execution of the Queen of Scots . . . . .	42
The defeat of the Armada . . . . .	45
The last years of Elizabeth . . . . .	46

## CHAPTER II.

## THE FIRST YEAR OF THE NEW KING.

	PAGE
1603. Proclamation of James I. . . . .	49
Other claimants of the succession . . . . .	50
Proceedings of the Council . . . . .	53
Character of James . . . . .	55
He sets out from Edinburgh . . . . .	57
Sir Walter Raleigh . . . . .	58
Sir Robert Cecil . . . . .	60
Lord Henry Howard . . . . .	63
Disgrace of Raleigh . . . . .	64
Recall of the monopolies . . . . .	65
Question of peace with Spain . . . . .	66
Embassies from Holland and France . . . . .	70
Treaty with France . . . . .	73
Expectations of the Catholics . . . . .	74
1602. Lindsay's mission to Scotland . . . . .	78
The Pope's breves . . . . .	79
Percy's visit to the King . . . . .	80
1603. Watson's conspiracy . . . . .	81
Cobham's plot . . . . .	86
Arrest of Cobham and Raleigh . . . . .	87
Evidence against them . . . . .	88
Raleigh attempts suicide . . . . .	90
His letter to his wife . . . . .	91
The cruelty of the law . . . . .	93
Trial of Raleigh . . . . .	97
Raleigh's innocence . . . . .	105
Execution of Watson, Clarke, and Brooke . . . . .	108
Reprieve of Raleigh and the other prisoners . . . . .	109
Remission of the recusancy fines . . . . .	109
Negotiations with the Pope . . . . .	111
Standen's mission to Italy . . . . .	112
1604. The banishment of the priests . . . . .	113
Negotiations with Spain . . . . .	114
Commencement of the conferences . . . . .	115
Neutrality in the Netherlands . . . . .	116
Trade with the Indies . . . . .	119
The Inquisition . . . . .	120
Conclusion of the treaty . . . . .	121
The Spanish pensioners . . . . .	122

## CHAPTER III.

## THE HAMPTON COURT CONFERENCE.

The English Reformation . . . . .	126
Tendencies of European thought . . . . .	127
The circulation of the Scriptures . . . . .	131

## CHAPTER III.—(continued.)

	Page
Luther and Calvin . . . . .	132
The Vestiarian Controversy . . . . .	134
Elizabeth and the Nonconformists . . . . .	135
The Presbyterian system . . . . .	138
Episcopacy in England . . . . .	142
The Royal Supremacy . . . . .	143
Whitgift's controversy with Cartwright . . . . .	146
The Prophesyings . . . . .	147
Suspension of Grindal . . . . .	149
Puritanism of the House of Commons . . . . .	150
The High Commission . . . . .	152
The Brownists . . . . .	155
Ecclesiastical reaction . . . . .	156
Hooker . . . . .	157
1603. Prospects of toleration at James's accession . . . . .	159
The Millenary petition . . . . .	163
1604. The Hampton Court conference . . . . .	167
The King's decision . . . . .	173
Death of Whitgift . . . . .	174

## CHAPTER IV.

## THE KING AND THE HOUSE OF COMMONS.

1604. The English Parliament . . . . .	176
The House of Commons . . . . .	177
The House of Lords . . . . .	179
The Parliament of 1604 . . . . .	180
Sir F. Bacon . . . . .	181
Sir E. Sandys and the popular leaders . . . . .	183
The King's speech . . . . .	183
Cases of privilege . . . . .	185
Purveyance . . . . .	188
The Court of Wards . . . . .	192
The union with Scotland . . . . .	194
Ecclesiastical questions . . . . .	196
The Trading Companies . . . . .	198
Free-trade Bill . . . . .	199
The apology of the Commons . . . . .	201
No subsidy granted . . . . .	208
Prorogation of Parliament . . . . .	209
The Canons of 1604 . . . . .	211
Bancroft, Archbishop of Canterbury . . . . .	212
Ejection of the Nonconformists . . . . .	213
New translation of the Bible . . . . .	215

## CHAPTER V.

## GUNPOWDER PLOT.

	PAGE
1604. Origin of the conspiracy . . . . .	216
The King's treatment of the recusants . . . . .	219
The summer assizes, 1604 . . . . .	220
Case of Pound . . . . .	221
Recusancy fines demanded . . . . .	222
Sir James Lindsay returns to Rome . . . . .	223
1605. The penal laws put in force . . . . .	225
Proceedings of the conspirators . . . . .	228
Hire of the cellar . . . . .	231
Rokewood, Digby, and Tresham admitted to the plot . . . . .	233
Preparations for an insurrection . . . . .	235
Tresham's scruples . . . . .	236
The letter to Lord Monteagle . . . . .	237
Information given to Salisbury . . . . .	238
Search in the cellar . . . . .	239
Arrest of Fawkes . . . . .	240
Tresham the writer of the letter . . . . .	240
Proceedings of the conspirators . . . . .	242
The flight from London . . . . .	245
Arrival at Holbeach . . . . .	250
The catastrophe . . . . .	252
Examination of Fawkes . . . . .	254
Imprisonment and death of Tresham . . . . .	255
1606. Trial and execution of the surviving conspirators . . . . .	257
Evidence against the priests . . . . .	258
Search for Garnet . . . . .	259
He is captured . . . . .	260
His examination . . . . .	261
His trial and execution . . . . .	263
Star-Chamber proceedings against Northumberland . . . . .	269
Meeting of Parliament . . . . .	271
Bill of Attainder . . . . .	271
New laws against the recusants . . . . .	272
The oath of allegiance . . . . .	273
The Canons of 1606 . . . . .	274
The new oath taken by some of the Catholics . . . . .	279
But condemned by the Pope . . . . .	280
Controversy on its lawfulness . . . . .	281
Fresh persecution . . . . .	282
Financial difficulties . . . . .	284
Subsidies granted . . . . .	288
The Petition of Grievances . . . . .	291
Legal promotions . . . . .	291

## CHAPTER VI.

## THE POST-NATI.

	Page
1606. Commercial progress . . . . .	294
The Levant trade . . . . .	295
1603. Imposition on currants . . . . .	297
1606. Bate's resistance . . . . .	299
The case tried in the Court of Exchequer . . . . .	300
Meeting of Parliament . . . . .	304
Answer to the Petition of Grievances . . . . .	304
The memorial on the Union . . . . .	306
Debates on commercial intercourse with Scotland . . . . .	311
1607. Debates on naturalization . . . . .	313
Abolition of hostile laws and extradition of criminals . . . . .	320
Parliament prorogued . . . . .	322
The case of the Post-nati in the Exchequer Chamber . . . . .	322
Bacon Solicitor-General . . . . .	323
Disturbances in the Midland Counties . . . . .	324
1604. Salisbury's foreign policy . . . . .	325
1606. Franceschi's plot . . . . .	333
Grievances of the merchants in Spain . . . . .	336
1607. They appeal to the House of Commons . . . . .	337
Reply of the Government . . . . .	341
The armistice in the Netherlands . . . . .	342
Position of England and France . . . . .	346
1608. Opening of the Conferences . . . . .	347
League between England and the States . . . . .	348
1609. The truce of Antwerp . . . . .	349
1584. Colonisation of Virginia . . . . .	350
1602. Voyage of Gosnold . . . . .	351
1605. Weymouth in New England . . . . .	351
1606. The first Virginian charter . . . . .	352
The colonists leave England . . . . .	354
1607. Arrival in the Chesapeake . . . . .	355
Smith's adventures . . . . .	356
1608. Smith president of the colony . . . . .	357
1609. The new charter . . . . .	358
Lord De la Warr governor . . . . .	360
Return of Smith to England . . . . .	361
1610. Lord De la Warr's arrival . . . . .	362
Dale's administration . . . . .	363

## CHAPTER VII.

## THE PACIFICATION OF IRELAND.

The Norman conquest of Ireland . . . . .	364
Degeneracy of the conquerors . . . . .	365
Necessity of a second conquest . . . . .	366
1600. Mountjoy in Ireland . . . . .	368

## CHAPTER VII.—(continued.)

	PAGE
1603. Submission of the country . . . . .	370
Grievances of the towns . . . . .	371
Rebellion at Cork and Waterford . . . . .	374
Suppressed by Mountjoy . . . . .	375
Mountjoy's return to England . . . . .	377
Sir G. Carew Deputy . . . . .	378
1604. Sir A. Chichester Deputy . . . . .	379
Social condition of Ireland . . . . .	380
Gavelkind . . . . .	381
The Septs and the Chiefs . . . . .	382
Tanistry . . . . .	383
Chichester's plans . . . . .	384
1603. Ireland after the war . . . . .	385
The first circuit in Ulster . . . . .	387
Sir John Davies . . . . .	389
1605. Chichester's proclamations . . . . .	389
Chichester's first visit to Ulster . . . . .	393
The Irish Catholics . . . . .	394
State of the Irish Church . . . . .	396
The recusancy fines . . . . .	398
The Dublin aldermen in the Castle-chamber . . . . .	399
General resistance . . . . .	401
1606. Relaxation of the persecution . . . . .	405
Chichester's second visit to Ulster . . . . .	408
Wicklow made shire-ground . . . . .	412
Tyrone's quarrel with O'Cahan . . . . .	413
1607. O'Cahan's appeal to the Deputy . . . . .	415
Conspiracy against the Government . . . . .	416
Tyrone summoned to London . . . . .	418
Flight of Tyrone and Tyrconnel . . . . .	419
Precautions taken by Chichester . . . . .	421
Condition of Ulster . . . . .	424
Suspensions against O'Dogharty . . . . .	426
Attainder of the fugitives . . . . .	427
1608. O'Dogharty's insurrection . . . . .	429
Surprise of Derry . . . . .	431
Intrigues of Neill Garve . . . . .	432
Defeat and death of O'Dogharty . . . . .	434

## CHAPTER VIII.

## THE GREAT CONTRACT.

1608. The musters renewed . . . . .	437
Financial difficulties . . . . .	438
The new impositions . . . . .	439
Growth of the expenditure . . . . .	440
The Ecclesiastical Courts . . . . .	442
1607. Fuller's case . . . . .	443

CHAPTER VIII.—(*continued.*)

	PAGE
1608. Coke's opposition to the Church Courts . . .	446
1609. Discussion in the King's presence . . .	448
1610. Parliament summoned . . .	449
Salisbury's financial statement . . .	450
Reply of the Commons . . .	451
Cowell's Interpreter . . .	452
The contract for tenures . . .	454
Suspension of the negotiations . . .	455
The Commons forbidden to discuss the Imposition . .	456
The King withdraws his prohibition . . .	458
Creation of the Prince of Wales . . .	459
A reply demanded by Salisbury . . .	460
The debate on the Impositions . . .	461
Their condemnation by the House . . .	468
The Petition of Grievances . . .	469
Conclusion of the contract . . .	470
The King's answer to the grievances . . .	472
Prorogation of Parliament . . .	474
Question of the force of proclamations . . .	475
The new session . . .	476
Breach with the King . . .	477
1611. Dissolution of Parliament . . .	480
Impending constitutional struggle . . .	482
Prospects of the country . . .	485

## CHAPTER IX.

PRESBYTERIANISM AND EPISCOPACY IN SCOTLAND—  
THE PLANTATION OF ULSTER.

1560. The Reformation in Scotland . . .	489
The ministers and the nobility . . .	490
1572. The first Protestant Episcopate . . .	491
1581. The second Book of Discipline . . .	492
1584. Restoration of jurisdiction to the Bishops . .	493
1592. Establishment of Presbyterianism . . .	494
1595. Victory over the Northern Earls . . .	496
1596. Melville's warning to the King . . .	497
Breach between the King and the clergy . . .	498
Black's sermon . . .	500
He declares the jurisdiction of the Council . . .	502
His banishment . . .	505
The tumult at Edinburgh . . .	506
James leaves Edinburgh . . .	508
1597. Submission of Edinburgh . . .	509
Scheme for giving the Ministers votes in Parliament	510
The Assembly at Perth . . .	512
The Assembly at Dundee . . .	514

CHAPTER IX. — (*continued.*)

	PAGE
1598. Second Assembly at Dundee . . . . .	516
James's ideas on the restoration of Episcopacy . . . . .	518
1599. His views become known . . . . .	519
1600. The Assembly at Montrose . . . . .	520
Appearance of Bishops in Parliament . . . . .	521
1603. Effects of James's accession to the English throne . . . . .	523
1604. Postponement of the Assembly summoned to Aberdeen . . . . .	525
1605. Attempt to postpone it further . . . . .	526
Meeting of the Assembly in spite of the King . . . . .	528
Imprisonment of Forbes and other ministers . . . . .	530
Their declarature . . . . .	531
1606. Trial of six of them . . . . .	532
Banishment of the six ministers . . . . .	537
Repeal of the Act of Annexation . . . . .	538
Melville and seven other ministers summoned to London . . . . .	539
Banishment of Melville . . . . .	540
The constant moderators . . . . .	541
The Linlithgow convention . . . . .	541
1607. Resistance to the constant moderators . . . . .	543
1609. The High Commission . . . . .	544
1610. Episcopacy established by the Assembly of Glasgow . . . . .	545
Consecration of the Bishops . . . . .	549
1608. Chichester's scheme for the settlement of Ulster . . . . .	550
Scheme of the Commissioners . . . . .	551
1609. Bacon's treatise on the plantation of Ulster . . . . .	554
Publication of the Commissioners' scheme . . . . .	555
Survey of the lands . . . . .	556
1610. Removal of the natives . . . . .	557
1611. Progress of the colony . . . . .	559
The Baronets . . . . .	560
1612. Chichester raised to the peerage . . . . .	560



# HISTORY OF ENGLAND.

1603-1616.

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## CHAPTER I.

### NATIONAL CONSOLIDATION.

ON the night of the 23rd of March, 1603, Elizabeth, as all England knew, was lying on her deathbed. Early on the morning of the 24th the great Queen passed away from amongst the people whom she had loved so well, and over whom, according to the measure of human wisdom, she had ruled so wisely. Her last days had been days of gloom and sorrow. Sad forebodings of the future which was opening before the nation entrusted to her care had weighed upon her mind. It was something more than regret for the untimely end of the ungrateful Essex which had embittered her declining years. It was more than the ordinary dissatisfaction which the aged so often feel in witnessing the new thoughts and interests which fill the minds of another generation.

CH. I.  
1603.

Death of  
Elizabeth.

The very success of Elizabeth's career must have made it seem to her to be almost a failure. She had steered the ship safely into port, but the haven which she had gained was not such as her youthful imagination had pictured. She had hoped to rule over a people filled with all generous impulses, and free to throw itself uncontrolled into every noble enterprise, but submitting

Her system of government threatens to fall.

CH. I.  
1603.

to be restrained by her judgment and to be guided by her will. She was not one of those who would clip the forest tree into arbitrary and artificial forms, but she imagined that she could impose upon it the law by which it should curb the vigour of its shoots, and fashion them to lines of grace and beauty. If she had died before the great victory had been won, she would have died contented. She would have left a people engaged indeed in a deadly struggle, but united under trusted leaders, and ready to grant no half-hearted confidence to those who were willing and able to guide it to success. Fifteen years were gone, and, to her, all was changed. With the excitement of the contest its virtues seemed to have passed away. Strange fancies possessed the minds of men. It was only with difficulty that the system of government in Church and State, which, in her eyes, was indispensable to the welfare of England, could be maintained. Puritanism and Jesuitry refused to give way at her bidding. New follies came to light every day. To those who remembered the good old times, it seemed that luxury was eating into the heart of the nation.

Nor was there any sign which, to the eyes of the Queen, could give hope of better days. The seed which had been sown, and which was already springing up to such a noble harvest, bore no promise to her. She did not understand it. She knew that it was not the England for which she had laboured, and there was nothing for it but to leave it to what guidance it might find.

So it will always be in this world. There are blessings which the wisest and the best regard as curses. They have performed their appointed task, and the world goes its way, and is weary of them. They cannot fit their hand to the new work which is called for in consequence of the success of their own endeavours. It seems to them as if their brightest achievements had been in vain. Lesser men die in the midst of their toils. An Elizabeth and a Cromwell outlive all that it is possible for them to accomplish successfully.

Nature of  
the im-  
pending  
crisis.

In truth, it was not merely a change of dynasty, or an ordinary change of policy, which was impending.

The crisis was one the like of which England had never known. The tide, which had been flowing steadily in one direction for more than a thousand years, was on the turn, and was about to flow as steadily in the other direction. It is impossible for us to comprehend the true meaning of the scenes which followed upon the death of Elizabeth, or to interpret rightly the motives and conduct of the actors, unless we understand the course of action by which the nation had been prepared for the work which lay before it.

The powers which Elizabeth had exercised had been gradually acquired in the course of centuries, and, up to this time, had been regarded as adequate remedies against evils of a very different character from those of which the nation was now for the first time becoming conscious.

When, more than eleven centuries before the death of Elizabeth, the Teutonic colonists fixed their settlements upon the soil of Britain, it can hardly be said that, in the proper sense of the word, the country was possessed of any government at all. It was the smallest part of the evil, that during the early portion of that dark period which followed the breaking up of the Roman power, England was occupied by numerous petty communities, which exercised the right of making war upon each other at pleasure. Within the bounds of these communities the checks placed upon the wild outbreaks of passion were extremely slight. The position occupied by a people in the earlier stages of civilisation is easily understood, as soon as the point of view is known from which they regard injury to life and limb. The English of the sixth century regarded these crimes merely as occurrences which might possibly bring down upon the offender the vengeance of the injured party or his relations. In order to avoid the continual annoyance arising from the existence of deadly feuds between families, a money payment was enjoined or enforced, upon which all enmity was to cease. In such a community there may have been much noble independence and manliness of character. It does not, however,

CH. I.

1603.

Her system of government the natural result of the past history of England.

The early Teutonic colonists.

**CH. I.** need many words to show how little the system which prevailed was likely to lay a check upon the violence of men in whom the ideas of duty and of self-control were extremely weak, especially as their religion, so far from putting any restraint upon the spirit of revenge, elevated it into a virtue.

Causes of  
the growth  
of large  
kingdoms.

Before the period at which we first obtain written information of the condition of England, the amalgamation of several of the petty communities had proceeded to a considerable extent.\* The causes which produced this drawing together of the original atoms of which the English nation is composed are discernible at a glance, upon casting the eye over a map in which the political divisions of the England of the seventh century are marked. In the four South-Eastern districts, where the Britons were weakest, and where they were least capable of making any long resistance, the progress of amalgamation soon received a check. In the West a harder struggle awaited the colonists. The inhabitants of the hilly and mountainous country which stretches from Devonshire to the Clyde, were not to be mastered without a greater exertion of force than was sufficient to break the power of the dwellers in the eastern lowlands. Wessex, Mercia, and the double kingdom of Northumberland came into being, because no force that was not larger than that which could be brought together by the men of Kent or Sussex would have a chance of resisting the fierce assaults of the exasperated Britons with whom they had to deal. With the need of mutual assistance grew up a feeling of attachment to those who were fighting in a common cause, and sharing in a common danger.

Influence  
of Christianity  
exerted in  
favour of  
union and  
morality.

After England had been christianised, the influence of the priests was exercised in a similar direction. The Christian missionaries had everything to lose by the existence of internal wars. Passing, as they did, from one part of the country to another at a time when a peaceful traveller was almost unheard of, they left no

\* This fact, of which no historical tradition exists, has been placed beyond doubt by Mr. Kemble.

stone unturned to foster thoughts of peace in the minds of their converts. CH. I.

Nor were their efforts limited to the effacing of lines of political demarcation. Coming as they did from Rome, their Christian ideas were deeply tinged with the lingering remains of Roman civilisation. Gradually under their influence Englishmen began to comprehend more clearly than before that acts of violence were injurious to the population in the midst of which they were committed, as well as to the individual who suffered from them. By degrees the Roman ideas of the existence of the State, and of its right to exact punishment for crimes, began to obtain some partial recognition. Still more important was the introduction of the Jewish and Christian idea of the sinfulness of wrongdoing, of the moral corruption from which it sprang, and of the rebellion against the Divine Governor of the world which it denoted. Great as were the evils which arose from the penitential system of the Church, and deservedly as it was rejected at a later date, it was undoubtedly far more beneficial than anything which existed in England before the preaching of the gospel had sounded through the land. For the first time men were taught to strive to eradicate evil passions from themselves, and learned that it was nobler to struggle against the corruptions of their own hearts, than to plunge their swords into the bodies of their enemies. It would have been better, no doubt, that their kings should have remained at home and governed justly, than that they should have forsaken their duties, and travelled as pilgrims to Rome; but it was well that they should learn, in any way, the unwonted lessons of self-denial and of self-restraint.\*

\* One of the most curious signs of this altered feeling with regard to crime and sin, is to be found in the foul and uncouth forms which are assigned to the devil in Anglo-Saxon literature. The heathen regarded Loki, and those beings who occupied his place in the various mythologies, merely as he might think of an enemy who might injure him. The Christian regarded Satan as possibly having a seat in his own heart, as ever threatening to defile it and corrupt it. Hence the loathing and disgust with which he was regarded. The contest was being waged for life and death. The Christian had gained in moral elevation, though the result looked upon from an artistic point of

## CH. I.

Compared  
with the  
results of  
the Roman  
Conquest.

The slow but steady success which attended the labours of the missionaries and their successors, forms a striking contrast to the failure of the Roman conquerors of Britain to impart any real elevation to their subjects. It was one more example of the difficulty which always attends the efforts of a conquering people to raise the conquered to their own level.\* It invariably happens that the subjects either lose all self-respect in the presence of their superiors, or that they stand aloof in haughty indifference.

The Christian teachers had not these difficulties to contend with. The proudest warriors could listen to the unarmed priest without loss of dignity. Whatever instructions he received, he received of his own free will. No interests were to be served, no passions to be gratified by his acceptance of the new faith, and by his obedience to its precepts. Even the introduction of confessedly foreign practices offered no shock to the sensitiveness of his feelings. In the sixth century, an Englishman was a member of a petty community cut off from all contact with the Continent. In the eighth, he was a member of that great body which was spread over all Western Europe. All the learning, all the moral greatness which existed in the world was laid up in a common stock from which he might freely draw. His thoughts were no longer riveted to the fields in which he dwelt, and to the petty cares of household existence. The narrow boundary of his life was broken through for ever. A long vista opened out before him, at the end of which he saw the capital of the Christian world, and behind it, and scarcely, to his eye, to be distinguished from it, the still greater glories of the Kingdom of Heaven.

Consequences of  
the Danish  
invasions.

Whilst these thoughts were making their way into the hearts of Englishmen, the enmities which had so long

view was not satisfactory. I need hardly add, that Mr. Kemble looked at the change from the latter point of view.—*Saxons in England*, i. 381.

\* 'Si l'on jette un regard attentif sur l'histoire, on découvre qu'en général les peuples barbares se sont élevés peu et peu d'eux-mêmes, et par leur propres efforts, jusqu'à la civilisation. Lorsqu'il leur est arrivé d'aller puiser de lumière chez une nation étrangère, ils occupaient alors vis-à-vis d'elle le rang de vainqueurs, et non de vaincus.'—Tocqueville. *Dém. en Amérique*. 13<sup>me</sup> ed. i. 401.

existed between the different kingdoms were beginning to give way. On the appearance of Egbert, the mass of the population submitted to him with a readiness which testifies to the abatement of local prejudices. The progress of amalgamation was considerably assisted by the long and terrible trial through which the new kingdom was destined to pass. About forty years before Egbert was accepted as king by the populations of the whole of England, Danish ships had appeared upon the coast of Northumberland. Over the vast empire of the descendants of Charles the Great the ravages of these maritime invaders was a signal for a general dissolution of the existing framework of society. In England their assaults were followed by very different results. A far less unwieldy empire was committed to the care of the English kings, and the descendants of Egbert proved themselves to be fully equal to the emergency. To the personal qualities of Alfred, of Edward the Elder, and of Athelstan, supported as they were by the nation, it is especially owing that the monarchical institutions which were giving way upon the Continent maintained themselves in England.

But the vigour of these great sovereigns was not perpetuated in their successors. As time wore on, it seemed as if this country too was to undergo changes similar to those which had reduced the Continental Empire to a confederacy of potentates rendering no real obedience to their nominal chief. When Edward the Confessor sat upon the throne of Alfred, and the danger of a fresh irruption of the northern barbarians was almost at an end, it appeared likely that England would soon be split up into at least three great federal lordships. From this terrible misfortune, and from the still more terrible reaction which was sure to follow, England was saved by the Norman Conquest.

Threatened dissolution of the monarchy.

In one respect, the conquest of England by the Normans stands alone in the annals of invasion. All the populations of Western Europe which had once formed part of the Roman Empire had been overrun by the German tribes. At various periods in the course of their subsequent history, it was in resistance to a foreign

The Norman Conquest and its effects.

CH. I.

oppression that every one of those populations gained a consciousness of its national existence. But no other nation ever went through an experience similar to that through which England passed during the first bitter years of Norman rule. On the Continent, when the Germans spread over the territory which they had won, the weakness of the conquered was such that no very compact organisation was needed to keep them in subjection. In the other cases of conquest to which reference has been made, the inhabitants of the various countries finally succeeded in defeating and expelling the invaders.

In England a different result was the consequence of the peculiar circumstances of the case. The English were not strong enough to shake off the yoke, but they were for a long time sufficiently powerful to inspire their oppressors with a salutary fear of the possibility of such an event. The results which were developed from such a state of things were of incalculable importance. The immediate effect was that the authority of the crown was immensely strengthened. In the presence of the dissatisfied English population the invaders no more dared to break up their military organisation, than a party of settlers dare to scatter themselves over a country inhabited by wild and savage tribes. To preserve this organisation, it was necessary that the head should be possessed of something more than nominal power. If the feudal system had been in England nothing more than it was in France, not a single Norman would have remained in England for a twelvemonth.

This increase of the royal power, favoured as it was by the personal character of the Norman kings, was in the end advantageous to the developement of the greatness and even of the liberties of England. In France, the weakness of the sovereign was such that he was unable to repress the excesses of the feudal lords, until the people, hardly feeling the tyranny of one in their joy at escaping from the tyranny of many, threw themselves blindly into the arms of the monarchy. Two forces only existed in the State. On one side were ranged the aristocracy, on the other the people headed by their Sove-



reign, and it is only within the memory of men still alive that the issue of the conflict has been finally decided.

In England, on the other hand, where, from the moment of the Conquest, monarchy was a substantive power, there were always three forces in existence. Nothing more was wanting to make it impossible that England should fall into the misfortunes by which France has been afflicted from the beginning of its national history. For a time one or other of those powers would seem all-powerful, but the balance was sure to be redressed, because the victory of one was invariably followed by a coalition between the other two. During the reigns of the Conqueror and his sons, the king was, in the main, considered as the chief of the Norman aristocracy, though he occasionally, when in difficulties, made overtures to the conquered race. In the evil times of the disputed succession the royal power was practically in abeyance, and the tyranny of the feudal lords prevailed without a check. No sooner, however, had the peaceable population obtained a leader in Henry II., than the supremacy of the barons melted away before the authority of the king. The character which Henry gave to the royal authority was never lost. In his hands it became the symbol of law and order, the sworn enemy of feudal anarchy and of aristocratic oppression. So far he was pursuing the same course as that by which the Kings of France were to arrive at absolute power. But absolute power was not to be attained by any English Sovereign. The descendants of the men who gave way at Hastings before the Norman chivalry, reinforced as they were by the lesser land-owners of the conquering race, were strong enough to make themselves respected. They wished to see in the King's hands power sufficient for the maintenance of order, and would forgive him many an act of violence done to individuals, if he would only do his best to fulfil the duties of his office. But they would never consent to support a Sovereign who lived in luxury and idleness, or to submit to general oppression in order that they might have the gratification of seeing their superiors oppressed also. In France the consolidation of the State

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CH. I.

The throne becomes gradually the source of law and order.

## CH. I.

hinged entirely upon the person of the King, whilst a fear of the evils which must ensue upon any successful attack made upon him prevented all attempts to limit his power. In England the progress of consolidation was equally steady, but the main force upon which it depended was to be found in the nation itself, rather than in the person of its head.

Effects of  
the royal  
power up-  
on the  
Norman  
aristo-  
cracy.

Nor was this the only beneficial effect resulting from the unusually large powers possessed by the Norman Kings. No class of the population was, in the end, benefited by it more than the Norman aristocracy themselves. Forced by the necessities of their position to take active measures in order to hold their own against King and people alike, they never allowed themselves to pass their lives in that isolation which was the curse of the aristocracies of the Continent. The statesmen of France and Germany in those early centuries were monks and bishops. The counts and knights, unless on some special occasion they deigned to follow their Sovereign to the field, were occupied in carrying fire and sword into the domains of the lord of the neighbouring fief, or in disputing the rights of the bishop of the nearest cathedral town. The English baron was forced at an early period to become a politician. The luxury of private war was interdicted, and if he had a point to gain, he knew that he could only gain it by pleading his cause either in the courts of the King, or in the assemblies of his equals. He loved to use his tongue as well as his sword. What was more, he learned to think of the necessity of sometimes giving way to other interests, and even to other passions than his own. In a word, he acquired the virtues and the habits of a man who is free himself, and who respects the freedom of others.

All this might have happened, and the nation might have been none the better for it. There have been aristocracies the members of which have treated one another like freemen, whilst they have regarded all other inhabitants of the country as little better than slaves. Insolence and luxury by turns sap the foundations of their power, and the noble edifice of to-day becomes the ruin of to-morrow. Against such a miserable failure as

this the excessive power of the King provided. Standing alone, the Norman Baronage would have defended a hopeless cause; standing at the head of the nation, they could hardly fail of success.

CH. I.

The second half of the twelfth century witnessed a great change in England. The clear line of demarcation which had been drawn between the races was growing fainter every day. The strong hand of Henry II. and the unbridled tyranny of John weighed upon Norman and Englishman alike. A common cause gave rise to common feelings, and to mutual sympathies. Both races resolutely refused to give to John the assistance which he required in order to maintain his continental dominions. After the loss of those dominions, both races united in obtaining from him guarantees for the better performance of his duties as an English king.

They put themselves at the head of the people.

It would only be to misunderstand the spirit of the Middle Ages to suppose, that the struggle in which our ancestors were engaged during the three centuries which preceded the Reformation was of the same nature as that which occupied the thoughts of Englishmen in the seventeenth century. Over all Western Europe one uniform tendency of thought was at the bottom of every movement during the whole course of the Middle Ages. To check the unruly riot of individual will, and to reach the firm ground of unity and order, was the one prevailing aspiration which manifested itself in all departments of human endeavour. The architects of those cathedrals which were springing up in their beauty in every corner of Europe took care, however irregular the ground plan of the building might be, to lead the eye to one tall spire or tower which gave unity to the work. The one great poet \* produced by the Middle Ages worshipped order and arrangement till he, a citizen of Italian Florence, was absolutely driven to call upon a German prince to bring under some kind of law, however rugged, the too luxuriant humours of the burghers

Aspirations of the Middle Ages.

\* Chaucer not being a medieval poet at all, except in point of time, but standing in the same relation to Shakspeare as that in which Wycliffe stands to Luther.

## CH. I.

of Italian cities. As it was with medieval poetry, so was it with medieval science. Proud of its new-found pre-eminence, the mind of man sat enthroned upon a height from whence it summoned all things human and divine to appear before it, and to give themselves up to the strict laws and the orderly classification which were to be imposed upon them. There were to be no obstinate questionings of the wild vagaries of nature, no reverent confession of inability to comprehend all its mysteries. The mind of man was greater than the material world, and by logic it would comprehend it all. Religion could not fail to follow in the same direction. The ideal of a people is generally composed of every element which is most opposed to the evils of their actual existence. With a people scarcely escaped from barbarism, that form of self-denial could hardly fail to be considered as the highest virtue which is shown, not in active exertion, but in bringing into obedience the unruly passions and the animal desires. The one way to the hearts of men lay through the monastery. The body was to be condemned to a living death, and the spirit alone was to live. The greatest saint was not the man who was most useful to the Church, but the man who showed the greatest mastery over all fleshly desires, and had most entirely cast off the feelings of our common nature; for it was this very power of self-restraint which would have been most difficult of attainment by the impetuous spirit of the ordinary layman. When kings foamed at the mouth and cursed and swore at every trivial disappointment, it was only natural that the most respected of the clergy should wear hair shirts and live like anchorites. Religious thought followed in the wake of religious practice. There was one faith drawn out with the most complete exactness to the most infinitesimal consequences, which the greatest minds might illustrate, but from which they might not vary a hairbreadth. In every land one worship ascended to God, clothed in the same holy forms, and offered in the same sacred tongue. Men and the thoughts of men might change as the changing billows of the sea, but there was that amongst

them which never changed. To Englishman and to Italian, to baron and serf, it told one tale, and inculcated one lesson of submission to Him whose kingdom was above all the earthly distractions and commotions in the midst of which their lives were passed.

CH. I.

It would have been strange if, whilst in all other departments of thought the tide ran so strongly in one direction, the course of politics had resisted the current. Over-legislation was the universal evil of the times. All proportion between a crime and its punishment slipped out of sight. No offence was too petty to be visited with the penalties of the law. No punishment was too harsh to be inflicted upon the offender. If vice and crime could be cured by repressive measures, the Middle Ages could hardly have failed in purifying the world.

Over-legislation.

But besides attempting to repress ordinary offences, the citizens and statesmen of the Middle Ages put forth all their energies against feudalism. In Italy, feudal lawlessness was beaten back by the town-walls which sheltered the petty republics within. In France, it was finally held down by the strong hand of royalty.

Influences antagonistic to feudalism,

It conduced in no small degree to the welfare of England that the kingly power reached so high a pitch at such an early period. It was thus able to receive active cooperation from the local communities, instead of merely passive support. When the first Plantagenets were on the throne the strength of those communities was still unbroken. Nor was their existence confined to the towns, as was generally the case upon the Continent. Under the stern rule of the Norman kings a body of landed proprietors had found shelter, who were something more than vassals of a great baron. The simple knights and the free socage tenants together had interests of their own very different from the great man from whom they technically held their land. They had a point of union in the county courts, which still remained as the most precious legacy of the times before the Conquest.

and favourable to the extension of the powers of government.

So it came to pass that England grew up full of vigorous life, which everywhere clothed itself with appropriate institutions. The barons with their retainers,

## CH. I.

the freeholders of the counties, the borough towns, the bishops with their clergy, and the monasteries with their inmates, all pursued objects of their own, and regarded men and things from their own peculiar point of view. It was this very variety of life which alone made a real national life to be possible. No order or class of men could hope, amidst such a multiplicity of interests, to bear down all opposition. The spirit of compromise soon crept in, and with the necessity of compromise quickly arose the desire for real and substantial justice. The aim of the nation was not, as in the seventeenth century, the restriction of the powers exercised by the Government, but the obtaining of guarantees that those powers should be exercised in the interests, not of the Sovereign, but of the nation. Hence the popularity of every King of England who made it his object to fulfil the duties of his office. A Sovereign who neglected those duties, or one who made use of his high position as a means to pamper his own appetites, or those of his favourites, was alike ruinous to the fortunes of the rising nation. England needed a strong hand to hold the reins, and it knew well what its need was. At all costs a government must be obtained, or anarchy would break out in its wildest forms. What the people felt with regard to the royal office was admirably expressed by a writer who lived in the latter part of the reign of Edward III. After telling the well-known fable of the attempt made by the rats to bell the cat,\* he proceeds to add a sequel of his own. In his story the cat, of course, represents the King, the rats stand for the nobles, and the mice for the common people. He informs us that after the council of the rats had broken up, a little mouse stepped forward to address the assembly, which then consisted of a large number of mice. He warned them that they had better take no part in any attempt against the life, or even against the power, of the cat. He had often been told by his father of the great misery which prevailed when the cat was a kitten. Then the rats gave the mice no rest. If the cat injured a mouse or

Illustration from  
*Piers  
Ploughman.*

\* *Piers Ploughman*, l. 361-413.

two now and then, at all events he rendered them the service of keeping the rats in order. CH. I.

But, though the people of England would put up with much from their King, there was a limit to their patience. In a hereditary monarchy, where the Sovereign is not responsible for the exercise of the executive functions of the Government, frequent revolutions are inevitable, excepting where the mass of the community sleep away their lives in absolute torpor. Hence it was that, while the powers of the Sovereign were steadily on the increase, his tenure of the crown became more and more dependent on his good behaviour. We have ourselves seen the operation of similar causes in our own time. Whilst the sphere within which the acts of the ministry are restrained is every year enlarged, it is a general complaint that the duration of the tenure of office by each successive ministry is as regularly decreasing.

Check  
upon the  
govern-  
ment.

The greater the power is that is in the hands of the Government, the greater is the necessity that that Government should be responsible to those for whose benefit its powers ought to be exercised.

The first attempt to bring the Government to account was provoked by the tyranny of John. John gave way, because all the forces existing in England were arrayed against him. The same league, attended with the same success, was for a time victorious over his son.

Resistance  
to John  
and to  
Henry III.

But, happily for England, the barons who took part in the conflict were unable to form a stable Government. In contending for their own peculiar rights, they had been fighting for the public good. As a Government, in spite of the ability and the many virtues of their great leader, they began to exhibit the faults of an aristocracy. England needed a good and able King, and it seemed as if the only choice offered her was between the foolish Henry III. and a committee of great lords, who were not to be kept in awe even by Simon of Montford himself.

With the single exception of the accession of Elizabeth, no such fortunate event ever occurred in English history as that which placed Edward I. upon his father's throne. By him the bases were settled upon which the

English  
constitu-  
tion settled  
under Ed-  
ward I.

CH. I. English constitution rests. With marvellous sagacity he comprehended the purport of every true thought which was floating on the surface of the age in which he lived. Perhaps no man, excepting Cromwell, possessed of equal capacity for government, ever showed less inclination to exercise arbitrary rule. He knew how to mould his subjects to his own wise will, not by crushing them into unwilling obedience, but by inspiring them with noble thoughts. When he first reached man's estate, he found his countrymen ready to rush headlong into civil war. When he died, he left England free as ever, but welded together into a compact and harmonious body. There was work enough left for future generations to do, but their work would consist merely in filling in the details of the outline which had been drawn once for all by a steady hand. All the main points of the constitution were accepted at his death. That the law was to be supreme; that that law was to be obtained from a body which should represent all the various classes and interests of the kingdom, and which was therefore most likely to look with fairness upon all; that power was to be lodged in the hands of the Government sufficient to combat against anarchy, whilst it was powerless to encroach upon the rights of the subjects—were means fully acknowledged by that great King, and brought out by him into practical operation.

Relation  
between  
the central  
govern-  
ment and  
the local  
communi-  
ties

Of the institutions within which the national life of England was developing itself, the most important were those which controlled the mutual action of the central government and the local communities upon one another.

in their  
judicial  
functions.

In the earlier stages of civilisation, when the relations which exist between man and man present but few complications, and but little fresh legislation is required, it is far more important to the wellbeing of the community that some rough kind of justice should be fairly and impartially dealt to all, according to the most defective system of law, than that the laws themselves should receive improvement. There are in existence two simple theories upon which it is possible to form courts of law.



According to one theory, the decision should rest with the main body of the people, or with a certain number chosen from the people for the special purpose of deciding the particular case, and allowed to return to their position as ordinary citizens as soon as their temporary functions have been performed. According to the other theory, the decision is committed to one or more persons chosen for their ability and learning, who retain their position, if not for life, at least for some considerable time. Taken alone, either of these modes of proceeding is liable to grave objections. In the one case, ignorance and prejudice are called upon to adjudicate on the most difficult questions; in the other, legal science is exposed to be drawn aside by social and political influences. In both cases a despotic temper is certain to be fostered, because those who pronounce the decisions are aware that they are responsible to none but themselves, and that they are under no necessity of obtaining the concurrence of others in order to give validity to those decisions. In our own country, not by any supreme skill either in the rulers or in the people, but in the natural course of events,\* a system arose by which the evils attendant upon the two extreme courses were to a great extent obviated. In earlier times it had been thought sufficient if the court, which was itself composed of the body of the people of the district, could obtain the sworn declaration of a certain number of persons in favour of one of the parties. The grounds upon which these persons swore was a matter for their own consciences. The court received their oaths, having neither leisure nor ability to sift evidence, or to carry on a lengthened and minute investigation. When the Norman kings took possession of the throne, they found this system, with some modifications, still in existence. No way was open to them †

\* The employment of the Roman *judex* by the *prætor* must have grown up in a similar way; but the system was far less complete than ours. In Rome the great benefits of the union of the two in one court were never attained.

† There were, of course, the English custom of trial by ordeal and the Norman custom of trial by battle, but these can hardly be considered modes of judicial investigation.

CH. I. to obtain the condemnation of a criminal, or the settlement of a question of property, except by the oaths of a certain number of men living in the neighbourhood, who were supposed to be capable of forming a satisfactory opinion on account of their knowledge of the circumstances of the case, and of the character of the parties. It was, however, manifestly impossible that this mode of trial should last for ever. The introduction of the complicated system of the feudal law would have called a class of practised judges into existence, even if the Kings of England had not been so readily disposed as they were to adopt any innovation which was likely to extend their influence.

Happily, this change, which only received its natural completion in the institution of the circuits of the judges, was brought about whilst the local spirit was still in its full strength. The judge decided the point of law, the 'lawful men of the neighbourhood' gave their sworn testimony to the point of fact. In the time of Edward I. the system was still in its infancy. By degrees, the witnesses would be allowed to satisfy any doubts which they might feel, by calling other witnesses before them, and would themselves gradually become a jury. The judges would become more learned, and, what was of still more importance, would become less liable to be corrupted by bribes, than Edward's judges always were. Still the great principle was, long before the time of his accession, already established, that for every important question on which it was possible to appeal to the law, no final decision could be arrived at, unless it was delivered in a court in the constitution of which both the Sovereign and the people were represented, each part fulfilling functions of its own, but neither being independent of the other.

Great as were the results of this institution as a means of obtaining justice, especially when the King was himself a party in the suit, its influence in the political education of the nation was no less important. Men who, in other circumstances, would have known nothing of anything but the cultivation of their own fields, and who would have had no subject of conversation higher

than the best mode of fattening oxen, and the prospects of a favourable harvest, learned to congregate at stated times in the county town, where they not only heard matters of the greatest interest to themselves and to their countrymen publicly discussed, but were themselves able to bring an influence to bear upon them. Nor was the gain less to the judges themselves, and to the class from which they were taken. On the Continent it often happened that men of greater ability than the English judges were raised to the judicial bench, but they were men of a very different rank of life from that from which the English judges were selected. In England, with few exceptions, the judges were always gentlemen. Under a different social system the results might have been injurious; as it was, they were eminently beneficial. In France the administration of justice was thrown into the hands of men who hated the aristocracy with a deadly hatred, and who revelled in theories of arbitrary power in the hopes of making use of the King's name to crush their hereditary oppressors. In England nothing of the kind took place. It could not well have been otherwise. A judge who went down to a country town in order to hold the assizes, with the assistance of the knights and freeholders of the neighbourhood, must necessarily have had some sympathy with those with whom he had to deal. All the learning in the world would not have saved an English William of Nogaret from a rough reception as he rode into Exeter or York.

Secure of their own social position, these judges worked in harmony with the free institutions of the country. The principles of the Roman law, which lay at the foundation of the rising jurisprudence of medieval Europe, were gradually blended with the principles of the feudal system. The result was a body of law incongruous enough in itself, and undoubtedly crying out for the pruning-hook of later times, but yet standing forth to the world as a system under which a free people could live. If the law itself gained by the social condition of the country, it, in its turn, reacted favourably upon society. Here, at least, noblemen and gentlemen did

CH. I. not look upon the law as a net of vile trickery spun out of the busy brains of men for the purpose of entrapping the feet of the honest and unsuspecting. It was connected by the closest ties with the system under which they had been born, and under which they hoped to die; and in its armoury they found weapons powerful enough to defend their dearest rights. They sent their sons to study its provisions, in order that they might take part in its administration, and they did not disdain themselves to become sufficiently acquainted with it to fulfil their own duties with a certain amount of success. Thus it was that a love of justice and a readiness to submit to the law were widely diffused amongst the English people, and the edifice of liberty was founded upon obedience.

In legisla-  
tion.

The causes by which these changes had been produced brought about similar results in the formation of the legislation of the country. During the reigns of the early Norman kings but little legislation was required, and although Great Councils were occasionally held, they were attended by few except the greater barons, and they appear to have been, for the most part, summoned for the purpose of engaging the vassals to follow the King to his wars, to swear fealty to his successor, or for objects of a similar character. Under Henry II. the meetings of these Councils became more frequent, and they took part in the great questions of the time, and gave their sanction to the reforms proposed by that monarch. When John and his son were upon the throne, the great barons saw the necessity of uniting themselves in their opposition to the Government with the lesser knights and freeholders, and, accordingly, at that time, representatives of this class began to be present at their meetings. Towards the end of the contest Simon of Montfort summoned burgesses from a few towns which were likely to support his party. The advantages to be derived from these changes did not escape the sagacious mind of Edward. The materials of a parliamentary constitution were ready to his hand, yet it cannot be denied that it is to him that we owe its regular and practical establishment. Without a single afterthought, or reservation of any kind, he at once accepted the

limitation of his own powers. To the Parliament thus formed he submitted his legislative enactments. He requested their advice on the most important administrative measures, and even yielded to them, though not without some reluctance, the last remnant of his powers of arbitrary taxation. CH. I.

He had his reward. Great as were his achievements in peace and war, the Parliament of England was the noblest monument ever reared by mortal man. Perhaps the day may come when that Parliament will think that the statue of Edward ought to occupy the place in Palace Yard which has been so unworthily taken possession of by the one among our long line of sovereigns who has the least claim to be represented in connection either with Westminster Hall, or with the Houses of Parliament. He found it a council occasionally meeting to grant supplies to the King, and to urge upon him in return the obligation of observing the charter to which he had sworn: he left it a body representing the nation from which it sprung, and claiming to take part in the settlement of all questions in which the nation was concerned. Many things have changed, but in all main points the Parliament of England, as it exists at this day, is the same as that which gathered round the great Plantagenet. It is especially the same in that which forms its chief glory, that it is the representative not of one class, or of one portion of society alone, but of every class and of every portion which, at any given time, is capable of representation. Every social force which exists in England makes its weight felt within the walls of Parliament. The various powers of intellect, of moral worth, of social position and of wealth find their expression there. Lords and prelates, knights and burgesses, join, as they have ever joined, in making laws, because each of these classes of men is capable of forming an opinion of its own, which in its turn is sure to become an element in the general opinion of the country; and because each of them is destined to share in the duty of carrying into execution the laws which have been made. English  
parliamentary  
government.

Nor was it of less importance that those who came up

CH. I. to Parliament should come, not on behalf of their own petty interests, but as representatives of their common country. Happily, the men who composed the Parliament of Edward I. had learned this lesson in opposition to a long course of arbitrary power, and they were not likely to forget it when they were summoned to share the counsels of a truly national king. So it was that the step which seemed to divide the powers of the State, and in the eyes of some would appear likely to introduce weakness into its government, only served to increase its strength. Edward was a far more powerful Sovereign than his father, not so much by the immeasurable superiority of his genius, as because he placed the basis of his authority on a broader footing, and carried on the work of consolidating the English nation in the only way in which such a work can, in the end, be successfully accomplished, by making its progress go hand in hand with liberty.

English  
military  
institutions.

One thing was necessary for the stability of the political edifice which had arisen upon English soil. The power of the purse and the sceptre of justice were in good hands, but they would not long remain in safe keeping unless the power of the sword were in equally good custody. Admirably balanced constitutions may proceed from a monarch's gift, but they can have no endurance unless the strength of a country is represented in them, as well as its intellect, its wealth, and its desires. Sooner or later that Government is doomed to fall under which the business of legislation is confided to any body of men, whilst the control of the military force is in the hands of those with whom they are connected by no ties of interest or of sympathy. England was saved from this danger. The various elements which were represented in Parliament were also represented in an English army. Both in the senate and in the field the barons occupied a position which was as yet unrivalled. But the yeomen, whose representatives were beginning to make their voices heard in Parliament, were rapidly assuming that place which they occupied during the wars of the fourteenth century. At Falkirk they gave promise of that skill in archery which was to decide the

issue of so many well-fought combats in Scotland and in France; and although the Londoners\* were unable to withstand the shock of Edward's charge at Lewes, yet they formed a force whose enmity was by no means despicable. As long as the military force was composed of such various elements, the King might assure himself that while he governed with justice he would have strength enough to beat down any recalcitrant faction which might arise; though he might also count upon the united resistance of all, if he abused his office to the general detriment of the realm.

As soon as the English nation had reached this amount of consolidation, it became evident that its newly-acquired strength would speedily bring it into collision with the great institution which overshadowed Western Christendom. The first years of the thirteenth century were years during which a marked change came over the spirit of the Church. Up to that time the influences which emanated from Rome, though often harsh and tinged with injustice, had been on the whole beneficent. The clergy had been forced, by no means unwillingly, into the places of dignity which they occupied. Amidst the anarchy of feudal Europe, learning, self-denial, and organisation were theirs alone. What wonder, then, if they were called upon to occupy positions for which they were unfitted by the ordinary functions of their office, but which they were able to fill far better than any one else then living? Nor was the general feeling less in their favour when they claimed exemption from the jurisdiction of the civil courts, at a time when those courts were notoriously incompetent, and were subject alike to the influences of bribery and of passion.

But at the commencement of the thirteenth century, the conditions under which the Church had grown to such prosperity were themselves undergoing a change. From that time the learning and the thought of Europe ceased to be confined to ecclesiastics. Partly owing to

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CH. I.

Change which passed over the Church in the thirteenth century.

Attempts to suppress heresy.

\* In 20 Ed. I. a charter was granted to the citizens of London, excusing them from submitting to trial by battle, on the ground that they could not be expected to fight on equal terms with a knight.—Fitzherbert, *Gr. Abridg.* *Coron.* 125.

CH. I. the intercourse which had arisen with Mohammedan nations, and partly to the increasing well-being of the populations of European towns, all kinds of strange opinions sprung up as from a hotbed. The effect was instantaneous. Rome, which had hitherto put itself at the head of the mental culture of Europe, suddenly opposed itself to all freedom of discussion and thought. The sword which had been wielded against the infidel was turned against the heretic. The wealthy and luxurious cities of Southern France ran red with blood. For the first time restrictions were placed upon the circulation of the Scriptures. For the first time, if we except a few isolated instances, independence of thought was accounted a crime. But Rome was not yet what she afterwards became. If she set herself against the intellectual movement which presented itself to her in such a doubtful form, she was at least capable of giving birth to an intellectual movement of her own. She answered the heretics with the sword of the Crusader, but she answered them also by sending forth the nobler army of the mendicant friars.

The mendicant orders

No step of equal importance had been taken since the first rise of monachism. In the original constitutions of the monastic orders, and in every one of the reforms which had arisen within them, asceticism had been the prevailing idea. To escape from the world with all its evil influences, to attack self-will by self-denial, to cherish the spirit by crushing and almost annihilating the body, were the objects aimed at by the originators of the various monastic rules. It is true, that in them labour took its place by the side of obedience. But it was labour not for the sake of those for whom it was endured, but for the sake of the self-discipline which it imposed upon the labourer.

compared with the monks.

It was not to be expected that the new institutions of St. Francis and St. Dominic should be based upon any other principle. In all forms of self-renunciation the friars were to outdo the monks. Their dress was, if possible, to be scantier, their fare coarser, and for subsistence they were to trust to the chance kindness of the faithful. So far, they might seem to differ little from



the members of the older orders. But whilst the monks aimed at working out their own salvation, the friars aimed at working out the salvation of their fellow-creatures. By the side of the great principle of self-denial rose into clearness the greater principle of charity. Labour had been honoured by the monks as the means by which the body might be occupied, and by which the passions of the heart might be kept at rest. Labour was honoured by the friars because by it they might help the helpless, might wipe away the tear from the eye of the sorrowful, and calm the terrors of the dying. The monk was often kind and merciful, his abbey was a source of comfort to the neighbouring poor, but, after all, his first sympathies were with his monastery, his order, and his patron saint. The friar knew nothing of any local attachments, he spoke to the poor and miserable, and claimed them all as sharers with him in one universal brotherhood.

They, too, had their reward. With their loving labour they grew in intellectual strength. From among their ranks arose the masters of medieval thought; the men at whom it was easy enough for a later age to sneer, as it is always easy for a fullgrown man to despise the training of his youth which made him what he is. The effort to harmonise and to classify pervaded that science, as it pervaded every other thought of the Middle Ages. What the Papal power was in the Church, the mind of man was to be in scientific research. The infallible spirit committed to the Pope was to order and arrange all pecuniary affairs in accordance with the rules of that which really was the highest morality, or which seemed to itself to be so, without much regard for the impulsive demands and wants of human nature. The infallibility of human reason was to summon up before it all the objects of knowledge, and to assign them the place in the order of science which they were to occupy for ever. Such hopes they had of gaining the vantage point of knowledge, as have often been cherished by intelligent men at some time or other in the course of their boyhood. Let us not blame them if they passed away before the world awoke to the fact that the path to

The  
schoolmen.

## CH. I.

science was a humbler and more toilsome road than any of which they in the early flush of intellectual vigour had ever dreamed.\* The human mind in their hands obtained none of those victories upon which they had counted with such assurance, but it gained that which was better still—the logical training and intellectual culture which became the inheritance of an age which entered into the possession of their labours.

Causes of  
the rise  
and de-  
cline of the  
ecclesiasti-  
cal power.

If this had been the only change which had come over the Church, in England, at least, no signs of dissatisfaction would have been seen. As yet the English people showed little eagerness to form new opinions. Enjoying a settled government earlier than the nations of the Continent, they had taken less part in the Crusades, and had come less in contact with Mohammedan doctrines and literature. But the spread of heresy was not the only object which was feared by the Papal hierarchy in the early part of the thirteenth century. The Church had long taken the part of the people against their Sovereigns. Amidst the barbarism of those early times, the general sympathy of mankind had been with that mysterious power which could strike down the highest earthly monarchs in the midst of their crimes. When injustice dwelt in feudal castles, and took its seat upon royal thrones, justice in the eyes of the oppressed had found refuge with the common father of the faithful. The powers which he claimed were yielded to him, because, on the whole, the exercise of them was beneficial. But it is plain that, as soon as the Sovereigns began to exert themselves in their proper functions, and to rule with justice and moderation, this exceptional state of things was doomed to a speedy extinction. However well a Pope or a Bishop may have performed the duties properly belonging to the royal office when there was no one else to perform them, it was certain that a King would perform them better still. In proportion as the throne became in reality the seat of justice, the powers claimed by the clergy were challenged by the laity.

\* And yet even of this the friars gained some knowledge, as is proved by Roger Bacon's example.

## CH. I.

Henry I. was forced to give way to Anselm. His grandson would have won his point from Becket, if he had not lost his self-control and made himself accomplice in a murder. A century later Edward I. succeeded where Henry had failed. With regard to his temporal claims, at least the Pope had evidently parted company with justice. The nations which were rising on all sides claimed back from the Pope the powers which had been entrusted to him during the days of anarchy. To the national movement, therefore, whether represented by the sovereign or the aristocracy, the Pope resolutely opposed himself. In England he took the part of John against the barons, and excommunicated those who had forced the miserable monarch to put his seal to the Great Charter. But that which more than anything else lowered the dignity of the Popes in the estimation of the world, was the unjust conflict which they sustained with the unhappy house of Hohenstaufen. The Pope was at last victorious, but it was a victory by which he was himself ruined. The necessity of money to carry on the conflict, and the unheard of extortions of the Papal emissaries who were sent forth to levy supplies, carried home to the minds of even the most devoted the melancholy truth that their belief in Papal disinterestedness had been a mere chimera.

Antagonism between the Pope and rising national powers.

Slowly and by degrees the people of England transferred their affections from the See of Rome to the laws and institutions of the realm. Men felt that questions arising between the clergy and their sovereign would be decided more fairly at Westminster than in Italy. Early in the reign of Edward I. this feeling came to the surface in the Parliament which passed the statute of mortmain. At a later period in the same reign the King received the full support of Parliament in two important steps which he took against the ecclesiastical power. In 1297 the clergy obtained a bull from Rome, pronouncing excommunication against all who should, without having previously obtained the consent of the Pope, contribute from church property to the taxation of the kingdom. Edward at once declared, that if the clergy would not bear their share of the expenses of the Government, they

The English people support the king.

Taxation of the clergy.

## CH. I.

should have no claim to its protection. A hundred years earlier such a threat would have been ludicrous. It was now sufficient to bring the clergy to their senses. They were ill-treated and pillaged on every side, and no redress was to be had. They were not long in making their submission. Their position was defined once for all. Whatever temporal rights they laid claim to, they were to receive from the justice of the English nation, and not from the favour of any foreign authority.

Quarrel  
with Scot-  
land.

Four years later the power of the Pope received another blow. He claimed a right to intervene in the quarrel with Scotland. A Parliament assembled at Lincoln in 1301 indignantly repudiated the claim.

Thus the King, supported by the great body of the nation, succeeded in taking possession of those powers which rightfully belong to every orderly and settled Government. It is not to be wondered at that England showed a disposition to exercise its newly acquired strength in aggressions upon the neighbouring nations. The conquest of Wales could not have been long deferred, and it was undoubtedly beneficial to Wales as well as to England. But Scotland was too large a morsel to be swallowed. Edward, indeed, meant honestly by the Northern Kingdom. When he first appeared to settle the question of the disputed succession, no Scottish nation, in the true sense of the term, was in existence. The feudal aristocracy implored him to come to their help, and to put a stop to their endless jarrings. By means of a doubtful title which he believed to be good, Edward hoped to link the destinies of the two kingdoms together. It was not so to be. Scotland was too large to be coerced even into that moderate amalgamation which alone was possible in those times, and it had as yet too little sympathy with England willingly to submit to it. An estrangement rapidly grew up between the two peoples. The barbarities of Wallace in the northern shires excited the indignation of the whole country. The behaviour of the English in Scotland caused no less general indignation there. A spirit was roused which even Edward I. would have had difficulty in resisting permanently, and which swept away his unfortunate son.

The only result of the ill-starred enterprise was the addition of another nation to Europe, and the planting of seeds of enmity between the two peoples which were destined to bear bitter fruit through centuries of strife. Yet, sad as are the memories of that long fraternal war, the success of the Scottish national resistance can form no object of regret. The two kingdoms took each their own way, each to contribute in due time its own peculiar element to the richness of our British life.

With far less justification, but with even greater eagerness, the nation under Edward's grandson threw itself upon France. The splendid but useless victories of Crecy and Poitiers filled the mind of the English yeoman with visions of military glory. Those battles were to the Englishmen of that generation what Marengo and Austerlitz were to the French soldiers of the first Empire. To the armies of Edward III. France presented a field for the satisfaction of their rapacity, as well as for the exercise of their valour. To such wars as these there could be but one end. Edward III., like his grandfather, went forth to fight with high lords and chivalrous knights. Before he died he had aroused a truly national resistance, before which it was as certain that even English valour must eventually give way, as it was unavoidable that the genius of Napoleon and the tried bravery of his armies would be unable finally to overcome the national spirit which he had aroused in every European country, from Lisbon to Archangel.

War with France.

On the failure of this second attempt at foreign conquest, the attention of the people was once more turned to the regulation of their domestic concerns. Measures were adopted by Parliament in the spirit of the legislation of Edward I., by which the interference of the Pope in English questions might be still more effectually hindered. But these measures were far from allaying the discontent of the people. They looked for a reform which should at once sweep away the abuses which prevailed in Church and State. The same advance in independence of thought which led men to question the right of the Popes to make use of the revenues of England for their own private aggrandisement, now

Attention drawn to the condition of the clergy.

## CH. I.

Wycliffe  
and his  
poor  
preachers.

led them to doubt the propriety of leaving the same révenues in the hands of the clergy, unless they would render services which bore some proportion to the emoluments which they received. Accordingly, their first aim was the purification of the Church. The wealth and power of the clergy had generally unfitted them for the performance of their duties, and even the mendicant orders, who had once fondly hoped to fill the vacant space, had sadly degenerated from their original institution. At the head of this movement was John Wycliffe. What the friars had been to the monks, Wycliffe became to the friars. The friars had retained the old doctrines, but had brought to the diffusion of them an activity which was altogether new. Wycliffe organised a band of preachers who equalled the mendicant orders in energy, whilst they disputed much of the generally received belief, and appealed to the scriptures to support their views.

The insur-  
rection  
of the serfs,  
and the  
conse-  
quent re-  
action.

For a time all seemed to prosper with him. A strong party amongst the nobility, headed by the Duke of Lancaster, supported him, and he had a considerable following in the body of the nation. It seemed as if the days of the Reformation were to be anticipated by a century and a half. Suddenly Wycliffe's friends and supporters drew back. The insurrection of the peasants struck horror into the hearts of all the landowners of England. Those gay nobles of the fourteenth century were not worthy to do the work. Their hands were not clean. They had prated of dominion being founded upon grace, and had been ready enough to counsel the clergy to resign their wealth, if they did not do the work for which that wealth was given. They were suddenly assailed by questioners, who asked upon what ground their own dominion was founded. Was it grace which gave them authority to keep men in bondage to their tyranny? They had been declaring loudly that property had its duties as well as its rights, and they were bidden, in tones of thunder, to remember that they had themselves claimed all its rights, but that they had been sadly forgetful of its duties.

Wycliffe's attempt failed. Whether it would have

succeeded under other circumstances, it is difficult to say. He had enunciated no principle which, like Luther's doctrine of justification by faith, could form the nucleus of a new system of belief; and it is difficult to believe that a merely negative Reformation would have had life in it sufficiently vigorous to stand against the reaction which was certain to ensue.

In the earlier stages of his career his scheme had met with favour, because the feeling of the country was then eager to bring the clergy more completely under the control of the national authorities. It failed when it appeared that the English nationality was as yet imperfect. A large class of the population had interests very different from those which were represented in Parliament, and it had put in its claim to be heard. That claim had been refused. Until it had been accepted, no progress could be made. The laity must reform themselves before they could succeed in reforming the Church.

At first they showed very little readiness for the work which lay before them. The nobility entered into a tacit compromise with the ecclesiastics. Noble names began to make their appearance in the list of bishops. Plans for the seizure of Church property are more rarely heard of lingering longer in the Commons than among the Lords.

The Revolution which placed the House of Lancaster upon the throne was a fresh enunciation of the principle, that the sovereign must reign for national purposes, or must cease to reign at all. In many respects it bears a close resemblance to the Revolution of 1688. In both cases the change was followed by a diminution of the independent action of the King, as well as by an increased respect for the laws of the land, and an extension of the influence of Parliament over the Government. But between the two revolutions there was one difference of the most important nature. In the seventeenth century the current of public opinion was running strongly in favour of diminishing the powers of the Government. At the end of the fourteenth it was running as strongly in favour of an increase of those powers, provided that

Character  
of the  
Revolution  
of 1399.

## CH. I.

they were exercised in accordance with the national will. The first fruit of the Revolution which drove the Stuarts from the throne was the Toleration Act. The first fruit of the Revolution which placed the sceptre in the hand of Henry IV. was the Act which authorised the burning of heretics.

It is plain that the compact which the clergy had formed with the Government could not last. A breathing time was allowed to both, that they might set their houses in order. Whichever of the two first made use of the opportunity would be master of the future.

York and  
Lancaster.

The first blow fell upon the great nobility. The powerful lords found their account in the weakness of Henry VI., and whilst nominally defending the crown of their sovereign, were in reality fighting for themselves. Personal considerations, no doubt, often decided the part which was taken by individuals in the wars of the Roses, but in the main the aristocracy was Lancastrian, whilst the strength of the House of York lay in the lesser gentry and the inhabitants of the towns. To the Percies and the Cliffords it was an advantage that there was no King in the land. To the humbler classes it was a matter of life and death that a strong hand should be ever on the watch to curb the excesses of the nobility. As long as the struggle was between a Yorkist King and the incapable Henry, there was no doubt who was the popular hero. When the question narrowed itself into a merely personal struggle between two competitors of equal ability, the people stood aloof, and left it to a handful of interested persons to decide at Bosworth the disputed right to the crown of England.

Henry  
VII. keeps  
down the  
nobility.

The policy of the House of York was taken up by the new King, and the subjection of the peers who remained was secured by the institution of the Star-chamber. Oppressive as that court afterwards became, it was undoubtedly beneficial in its operations during the early stages of its existence. It reached culprits who were too high to be assailed by the ordinary process of the law. It brought down punishment upon the heads of the great, when it was difficult to find a jury who would not be hindered by fear or affection from bringing in a



verdict against them, even when it could be supported by the strongest evidence.

CH. I.

Great as the change was which the nobility had undergone, it was as nothing to the change which had passed over the agricultural population. Gradually and silently they had risen from serfage into freedom; so silently that no history is possible of the greatest reform which England ever knew.

Gradual emancipation of the serfs.

At the close of the fifteenth century it was found that the laity had made good use of the time allowed them. There was more union between the several orders of the community than there ever had been before. The high had been drawn down from their high place, and the low had been exalted to meet them. One word which has come down to us is sufficient to stamp with nobleness the work which had been accomplished in England during the Middle Ages. The favourite name by which what we should call 'the nation' was always spoken of was 'the commonwealth.' Every class of men had indeed a rank and position of its own, but they were expected to contribute to the well-being of the whole. Local institutions, corporations, privileges of nobility, and ecclesiastical dignities, would be maintained if they were serviceable to the commonwealth; if not, sharp punishment would follow.

The Commonwealth.

The power of the different classes of society having thus given way before the will of the united nation, it followed that the Government must of necessity be either very strong or very weak. If it opposed the general feelings of the community, it would soon be toppling to its fall; if it acted in unison with them, it was irresistible. A quarrel of any long duration between the King and the Parliament was impossible. The power of the Upper House being broken, the King found himself face to face with the House of Commons; and, in the sixteenth century, the House of Commons was composed of men who were, in point of fact, rather delegates of an army than leaders of opinion. The final decision on public questions rested not with voters in Parliament, but with the stout hearts and sturdy arms of the people of England, who would be ready at a moment's notice to march

Strength of the Government.

CH. I. against a Sovereign who could not count upon the services of even the smallest military force dependent upon himself.

Character  
of the  
people.

Under such influences as these, it was only probable that the legislation of the sixteenth century would be very dissimilar from the legislation of the present day. The Government was all-powerful to suppress generally recognised abuses, but its power was not always limited to such beneficial exercises of authority. Injustice was often done, sometimes from ignorance of the principles of political morality, and sometimes because the hostility of the Government was directed against an unpopular object. The nation was capable of supporting measures which were in themselves essentially unjust, and it was more than probable that it would frequently be desirous of obtaining justice by unjust proceedings. Still more frequently it would look on in silence whilst injustice was done to individuals whose wrongs were not of a nature to provoke any general resistance.\* The temper of the people in many points resembled the temper which may be expected to prevail among a large collection of schoolboys. To healthy vigour was joined a thorough detestation of evil, and especially of those forms of evil which are in any way allied to cowardice or meanness. In order to punish whatever they counted base or dishonourable, they were prompt to resort to harsh and hasty measures; and they had but little notion of modifying punishment to meet the various degrees of crime. Still less had they any idea that there are actions which are evil in themselves and injurious to the community, which, nevertheless, it is right as well as expedient to leave unpunished. In default of any knowledge of scientific jurisprudence, they were hasty in their judgments, and most unjust even when they meant to be most just; because they had never acquired the habit of

\* It is certainly fallacious to argue that the people were satisfied with the measures of the Government, because they did not rebel. An English population would hardly resist an obnoxious Government, unless their grievances were of such a nature as to be felt by large masses. Individual cases of tyranny would not therefore move them to rebellion, however much they might sympathise with the sufferers.

placing themselves in the position of those from whom they differed.

CH. I.

When such a temper prevailed among men, it was not likely that deep thought would precede action, or that any calculation of consequences would deter them from hasty legislation. What they felt strongly, they were ready to carry out into immediate execution. No sooner had the House of Commons heard of an attempt to poison the Bishop of Rochester, than they passed a Bill to enable the courts to boil the culprit alive. A hasty word from Charles V. lost him the hearts of the nation, and changed the foreign policy of England in a day. But, with all their impulsive nature, they were easily quieted by their Tudor Sovereigns, who entered into their feelings, and shared their prejudices. The harmony which, during the sixteenth century, existed between the nation and the court, was strengthened by circumstances beyond the reach of human control. It is one of the most remarkable facts in the history of that century, that every one of the five Sovereigns who occupied the throne during its course died in time to escape the loss of popularity. Had Henry VII. lived many years longer, the storm which swept away Empson and Dudley would have burst upon himself. Henry VIII, if his life had been prolonged, could hardly have maintained his principles of government in the face of the rising opposition. Edward's early death preserved him from the reaction which bore Mary to the throne, and Jane Gray to the scaffold. Death alone, five years later, saved Mary from the hatred of her subjects; and the great Elizabeth herself, when she went down to the grave, full of years and honours, must have felt that her work was done.

Facilities  
for hasty  
legislation.

The Tudor  
Sovereigns  
as repre-  
sentatives  
of the na-  
tion.

As long as the Sovereign was trusted by the people in the main matters of government, his power was almost unlimited in things of less general importance. He could not make laws or raise taxes without the consent of Parliament, nor could he inflict punishment except after due and lawful trial. But he could frequently wring money from individuals, and he could imprison suspected persons at pleasure, as a precaution against

They are  
supported  
in their do-  
mestic and  
foreign  
policy.

CH. I. evil designs. If his power was often arbitrary enough at home, still more completely was he master of all intercourse carried on with foreign princes. The only check which existed upon his management of foreign affairs was the necessity of obtaining supplies from Parliament in time of war. In later times the House of Commons claimed a right to interfere in these questions. At a still later period, the great body of the nation made their voice heard on the subject. At that time the information necessary to form a right judgment was wanting to all, except to the King and his immediate ministers. The policy of the great monarchs of the Continent was frequently influenced by private intrigues. To become acquainted with these was the object which our ambassadors set before themselves during their residence at foreign courts, and the result of their inquiries was communicated to the Government at home. The country gentlemen who came up every three or four years to sit for a few months at Westminster had neither the knowledge nor the skill requisite for meddling with such intricate transactions. They were the less eager to interest themselves in diplomacy, as they knew that the King would never dare to engage in war against the will of the nation. Without the consent of the people he could not command the services of a single soldier, nor could he raise a single shilling beyond his ordinary revenue. From this peculiar dependence of the governors upon the governed results arose of which we still feel the benefit. The Government became shy of forming schemes in which the people did not participate. On the other hand, when its schemes had once been formed, it was always ready to lay them before the people, in order to obtain their support. This relation between the rulers and the people has set its mark upon English history. If there has never been much room amongst us for that class of statesmen who are themselves in advance of the age in which they live, and who strive, for the most part in vain, to mould their contemporaries after their own ideas, nowhere has a larger amount of political ability been diffused amongst all orders of the nation, and nowhere have so large a

Depen-  
dence of  
the Go-  
vernment  
upon the  
people.

portion of the people taken so great an interest in political affairs.

CH. I.

It would have required no great amount of sagacity for anyone even moderately acquainted with English history to have foretold, at the commencement of the sixteenth century, the course which the nation would follow for some time to come. At the accession of Henry VIII. one hundred and twenty years had passed since the insurrection of the serfs had interrupted the Reformation. So much time had been granted to the clergy, and of this time they had made no use whatever. With the lay part of the community the case was very different. They were more compact and better organised than they had been in the fourteenth century, and they had got rid of those social anomalies which had formerly maimed their strength. They were, if possible, more anxious than before to put an end to those evils which rendered the Church hurtful rather than beneficial to the commonwealth. In one word, having reformed themselves, they were anxious to proceed to reform others. One thing they stood in need of. They could hardly attain their ends, except under a Sovereign who shared their feelings, and who was prepared to act in their name.

Prospect at the beginning of the sixteenth century.

Such a Sovereign they obtained in Henry VIII. Hasty and uncontrollable, yet inspired by generous instincts, and eager to act the part of a wise and good ruler, he too often mistook the dictates of his own imperious will for the conclusions of his reason, and was, like all his contemporaries, entirely unaware that there is a limit beyond which, in the best cause, force becomes useless and injurious. Sooner or later, the dissatisfaction which was widely felt with the extortions of the ecclesiastical courts, and with the lives which were led by many of the inmates of the monasteries, must have broken out into a flame. The quarrel was only precipitated by the antagonism with the Pope into which the King was driven by the circumstances which attended the question of his divorce.

Character of Henry VIII.

The question of the divorce only precipitates the Reformation.

On the merits of Henry's case different opinions have been formed. But there was one point which can hardly

## CH. I.

admit of any difference of opinion. Every day that passed while the question was being discussed, brought more clearly before the eyes of the English nation the utter unfitness of the Papal tribunals to decide upon matters in which great national interests were involved. It was not that Clement VII. was influenced by the prejudices natural to his position, but that he was incapacitated by his situation from sitting as an independent judge at all. His vacillations were to be ascribed neither to the weakness of his own mind, nor to the force of the arguments which were from time to time addressed to him by either party, but to the varying fortunes of the French and Spanish armies. It is no wonder, therefore, that Henry and his Parliament refused to entrust their cause any longer to such a tribunal. Whatever advantages the nation may have derived in earlier times from the Papal See, the prospect which it now had in view was plainly intolerable.

The Reformation carried out well but roughly.

The next step was inevitable. The King, standing at the head of the English laity, carried on the work of the Reformation in the old Plantagenet spirit. The nation was not, indeed, weary of the doctrines of the Church. The Protestants might be counted by units. But the King and his ministers were urged on by the highest and the lowest portions of their nature to the work. Eagerness to carry out a great reform was by no means blunted by the prospect of obtaining a share in the broad abbey lands which spread over England. On the whole, the work was well and nobly done. But it was done roughly and clumsily, as might have been expected from men who had received the training which had been given to that generation. Oaths were tendered, on pain of death, that never should have been tendered. Blood was shed that never should have been shed.\* The lessons of persecution which the clergy had taught so long were turned against themselves. But with whatever errors, and even crimes, it was accompanied, a work was done of which England may well be proud.

\* If it be urged that the existence within the realm of those who refused the oath of allegiance was unendurable, the answer is, that there was an old English penalty known as abjuration of the realm, which would have exactly suited the case.

At last the great object for which the nation had been striving for five hundred years was accomplished. The supremacy of the national Government over all individual men, and over all separate classes, was achieved. Before the attainment of this, that other great object of medieval veneration, the unity of Christendom in obedience to the See of Rome, had given way completely, and, save for one brief moment of reaction, it had given way for ever. Those who still acknowledged the headship of the Pope were executed as traitors who were supporting an anti-national cause.

At first the Government, which had won the victory, showed itself to be no gentle master. The Protestants were burnt as heretics. Well-meant, but ultimately injurious attempts, were made to regulate the relations between capital and labour. Every Act of Parliament was pervaded by the spirit of over-legislation.

Oppressive character of Henry's Government.

Yet even that which, to our feelings, is the most revolting characteristic of Henry's government, the prostitution of the forms of law to throw a decent cloak over impetuous and unjust action, is, if it be rightly understood, the result of one of the most hopeful sides of the English character. Men did not recur to legal subtleties to help them to obtain what they knew to be wrong. They first imagined themselves to be right, and then appealed to the formal decision of the law in order to confirm themselves in their belief. The Bills of attainder and the persecuting Acts were bad enough, but they were better than the undisguised violence and the butcheries in which the preceding generation had taken part. It was a great step that the doctrine of the supremacy of the law should sink deeply into the national conscience. It would be the work of time to teach Englishmen what that law ought to be, and how it ought to be administered.

Henry became the most powerful Sovereign that England had ever known. The clergy had taught the people that truth might owe its best defence to the punishments inflicted by the civil power, and had themselves grasped at the temporal sword. Henry held the sword firmly in his hand, and employed it, according to their teaching,

## CH. I.

in regions where it should never have been seen. He was, indeed, as men said of him, 'a King with a Pope in his belly.' His will was law, and though never intentionally cruel, he became every day more and more regardless of the value of human life.

Results of  
Henry's  
policy in  
the reign  
of his son.

On his death, a reaction speedily set in. The more valuable results of his work would be seen in time. At first it seemed as if nothing but weeds and briars would spring up from the soil which he had tilled. The rashness and folly of too many of those who attained to power during the reign of his son were able to work the greater mischief, because freedom of thought and action had been so long repressed. The question of inclosures assumed unnecessary proportions, because he had so long propped up an unnatural division of property. Honest Protestants and prudent statesmen alike saw the building upon which they would fain have laboured swept away at once upon the death of Edward.

Reign of  
Mary.

In five years after Mary's accession the nation was weary of the yoke to which it had again submitted. By her marriage with Philip she offended the national feeling of the country. By threatening to resume the abbey lands she terrified the men who had made their fortunes by the Reformation. Above all, the sufferings of the martyrs warmed the hearts of the people into admiration for a faith which was so nobly attested. The seeds which had been sown by the Protestants during the brief season of prosperity in Edward's reign were beginning to spring up into life. Patriotism, selfishness, humanity, and religious faith combined to foster the rising disgust which threatened to shake the throne of Mary, and which at last found its expression in the shout of triumphant joy which greeted the accession of her sister.

Elizabeth  
suppresses  
the Roman  
Catholic  
worship.

As soon as Elizabeth ascended the throne, all exercise of the Roman Catholic religion was suppressed.\* The

\* The best defence of Elizabeth's treatment of the Catholics is to be found in Bacon's tract, 'In felicem memoriam Elizabethæ.' (Works vi. 298.) It must, of course, be received with some allowance; but it is remarkable as proceeding from a man who was himself inclined to toleration, and written after all motives for flattering the Queen had ceased to exist.



reasonings upon which this measure was founded would not in our days bear discussion, yet the arguments in its favour were so strong that they could be successfully opposed by none but those who had the strongest faith in the healing virtue of toleration and in the ultimate victory of truth. For the Roman Catholic clergy aimed at something far more than the establishment of a religion. They had held for centuries what was, in the truest sense of the word, political power. That power they had misused to exercise such vile tyranny that the whole nation had risen as one man against them. To allow the men who had worked such terrible ruin to incite their hearers in every parish in the kingdom to restore once more their evil domination, was to put arms into the hands of the deposed tyrants. It was not the fault of Elizabeth or of the House of Commons that the claim of the priests to direct the religious opinions of the people had become inextricably entangled with their claim to deal hardly with the bodies of men. By a fitting retribution, those who introduced the evil principle paid the penalty. The day would come when they would be content with merely spiritual influence, and then their claims might perhaps be listened to; but it was hardly to be expected that they would wait in patience for that time. It was not long before conspiracies broke out within the realm, and from without the tidings came that the Pope had excommunicated the Queen, and had absolved her subjects from their allegiance. In the background appeared Philip of Spain, the champion of the Holy See. For us, who know the issue of the conflict, it is almost impossible to realize the feeling of dismay with which that mighty potentate was regarded by the greatest of the Powers of Europe. There did not exist a nation which was not overawed by the extent of his territories. By means of Naples and the Milanese he held Italy in a grasp of iron. Franche Comté and the Low Countries served him to keep both France and Germany in check. The great mercantile cities of Flanders—the Manchesters and Liverpools of the sixteenth century—paid him tribute. His hereditary dominions furnished him with the finest infantry which

Conspiracies supported by the Pope and the King of Spain.

## CH. I.

England is threatened by the vast powers in the hands of Philip II.

The growing respect for toleration gives way.

Mary Stuart in England.

had been seen in Europe since the dissolution of the Roman Empire. Whatever life and intellectual vigour still remained in Italy was put forth in furnishing officers for armies which fought in causes that were not her own, and those officers were at the disposal of the King of Spain. Nor was his power, like that of Napoleon, limited by the shore. His fleet had won the victory which checked the Turkish navy at Lepanto. The New World was, as yet, all his own; and, as soon as Portugal had been added to his dominions, all that that age knew of maritime enterprise and naval prowess was undertaken under the flag of Spain. Great as his power was in reality, it was far greater to the imagination. It is no wonder that the English people, when they found themselves exposed to the attacks of such an adversary, gradually forgot those new principles of partial toleration which had not yet settled deeply into the national mind. The doctrine which was put forth at the accession of Elizabeth was, that conscience was free, although the public exercise of any other than the established religion was to be suppressed. Unsatisfactory as this was, it was yet an immense advance upon the opinions which had prevailed thirty years before. By degrees, however, the Government and the Parliament alike receded from this position. As early as in 1563 an Act was passed by which the bishops were empowered to tender the oath of supremacy, not only to persons holding Church preferment or official positions in the State, but to large bodies of men; and it was enacted that all who refused the oath should be visited with severe penalties.

The position of Elizabeth was still further complicated by the untoward occurrence of the flight of Mary Stuart into England. She did not come, as has been often imagined, as a humble suppliant in search of a refuge from her enemies. She came breathing vengeance upon the nation by which she had been deposed, and demanding either an English army to replace her on the throne, or permission to seek similar assistance from the King of France. Elizabeth hesitated long. She could not, even if she had wished it, grant her the assistance of an

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 CH. I.  
 1603.

English force; and to look on while she was being restored by a French army was equally impossible in the condition in which European politics were at the time. With Mary's claims to the English crown, a French conquest of Scotland would only have been the precursor of a French attempt to conquer England. To any but the most far-sighted statesman, the course actually taken must have appeared to be the best. Yet we may be permitted to doubt whether, even in this case, success would not have attended an observance of the ordinary rules of political morality. Elizabeth might have allowed the fugitive to leave England, simply on the ground that whatever faults she had been guilty of, they had not been committed within the jurisdiction of the Crown of England. She might then have accompanied her refusal to treat Mary with immediate harshness with a warning that an alliance would be concluded without delay between England and Scotland, and that any attempt to introduce French troops into Scotland would be met with all the forces at her disposal, and that her commanders would have orders to surrender to the Scottish authorities all the prisoners they might take, not excepting Mary herself. Such a course would not have been devoid of hazard, but it would in all probability have been justified by success. The King of France had other things to do besides engaging in a foolhardy expedition, and Philip, who was not the man to be turned aside from his settled purpose by any fear of exposing to danger the life of a hostage, might be regarded as an enemy in any case.

After long deliberation, Elizabeth chose the alternative which for the time seemed to be most prudent. She must have come at last to doubt the wisdom of her decision. While Mary was lying within the walls of an English prison, her name became a tower of strength to the Papal party throughout Europe. The tale of her life, told as it was in every Catholic society, was listened to as if it had been one of the legends of the Saints. Every tear she dropped put a sword into the hands of the Pope and the Spaniard. There was not a romantic youth in Catholic Europe who did not cherish the hope of becoming

Her imprisonment and execution.

## CH. I.

the chosen instrument by whose hands deliverance might reach the victim of heretical tyranny. Jesuits swarmed over from the Continent, and whispered hopes of victory in the ears of their disciples. Incessant attempts were made to assassinate Elizabeth. At last the end drew near; the only end which could well have come of it. Louder and louder the voice of England rose, demanding that the witch who had seduced so many hearts should not be suffered to live. After a long struggle, Elizabeth gave way. The deed was done which none of those had contemplated who, nineteen years before, had joined in recommending the detention of the Scottish Queen, although it was only the logical consequence of that fatal error.

Ill-treatment of the Catholics.

If the Government and people of England dealt thus with Mary herself, they were not likely to treat with mildness the supporters of her claims. Act after Act was passed, each harsher than the last, against priests who should attempt to reconcile any subject of the Queen to the See of Rome, or should even be found engaged in the celebration of mass. The laity were visited with fines, and were frequently subjected to imprisonment. Harsh as these proceedings were, the mere fact that it was thought necessary to justify them shows the change which had taken place since Henry VIII. was upon the throne. Neither the arguments put forward by the Government, nor those by which they were answered, were by any means satisfactory. We shake our heads incredulously when we hear a Jesuit from Douai urging that he was merely a poor missionary, that he was a loyal subject to the Queen, and that, if success attended his undertaking, it would be followed by no political change. We are no less incredulous when we hear Burghley asserting that the Government contented itself with punishing treason, and that no religious question was involved in the dispute.

The old entanglement between the temporal and the spiritual powers was far too involved to be set loose by argument.\* Such questions can be decided by the

\* Bacon speaks of 'matters of religion and the church; which in these times by the confused use of both swords are become so intermixed with

sword alone. The English people were in no mood to listen to scholastic disputations. It was no child's play that was before them. With stern confidence in their cause and in their leaders, they prepared for the struggle which awaited them. Leagued with the rising Republic of the United Netherlands, they bade defiance to Philip and all his power. At last the storm which had been for so many years gathering on the horizon burst upon the English Channel. When the smoke of battle cleared away, England was still unharmed, riding at anchor safely amidst the swelling billows.

CH. I.  
The Ar-  
mada.

When the streets of London were filled with the crowds which had come out, with the shout of victory still ringing in their ears, to catch a glimpse of their Queen, as, surrounded by the noblest and bravest in the realm, she passed on her way to St. Paul's to render thanks for the great deliverance, every heart was filled with joy and exultation. But, glorious as in their eyes the victory had been, its full value was not yet revealed to them. They did not know that it was a 'crowning mercy.' They expected that another still more formidable fleet would succeed the one which had been shattered by the terrible onslaught of the English captains, and by the yet more terrible storm which had been sent, as they were firmly convinced, to save England from popish tyranny. Still less did they know that the solemnity of that day marked the culminating point of those varied scenes of history, during which their native land had been laboriously working out its national unity and independence, and had been, by many hands and through many fortunes, welded into harmonious strength. Within, anarchy was no longer possible, nor did any class or body of men still exist who were capable of refusing submission to the national will; without, no enemy would again hope to impose his will by force, after that the greatest monarch in Europe had met with such signal failure in the attempt.

Thanks-  
giving at  
St. Paul's.

considerations of estate, as most of the counsels of sovereign princes or republics depend upon them.'—*The beginning of the History of Great Britain.* Works, vi. 276.

## CH. I.

The last  
years of  
Elizabeth.

For fifteen years longer Elizabeth sat upon the throne. The aggressions of Spain were repaid with interest. Philip found himself thwarted on every side. The storm swept with all its fury over his American dominions, from which he had fondly hoped to exclude even the peaceful merchant. His colonies were ravaged, his ships taken, and his cities sacked. Nor was Spain itself safe from the English fleets. The fortifications of Cadiz were unable to shelter the Spanish navy from the avenging swords of Raleigh and Essex.

Victorious at every point, Elizabeth was anxious for peace. In this desire she was supported by the wisest of her counsellors. The continuance of the struggle was trying the resources of England to the utmost. Nor was it only the material prosperity of the country which was at stake. A race of men was growing up with the high-minded Raleigh at its head, who seemed to love the Spanish war for its own sake. Nursed in the midst of arms, they had sworn an eternal hatred to Spain and to the Pope. To plunder Spanish cities, to sack Spanish galleons, was in their eyes to be the never-ending work of all true-hearted Englishmen. Against such a policy as this Burghley protested with all the authority of a life spent in the service of his country. Once, when Essex raised his voice for war in the presence of the Queen, the aged Treasurer opened the Bible at the place where it is written, 'Bloody and deceitful men shall not live out half their days.' Elizabeth sympathised with him in his desire for peace. She gladly accepted the first advances of Spain, and sent her commissioners to treat at Boulogne. But the honour of England was safe in her keeping. The Spaniards refused to treat with the English commissioners on equal terms, and she immediately broke off the negotiations.

Failure of  
the nego-  
tiations at  
Boulogne.

Spanish in-  
vasion of  
Ireland.

Spain, bankrupt in resources, and impoverished by despotism amidst floods of gold, had yet one card to play. Ireland was in full rebellion. England, unassailable at home, might be humbled if an army could be thrown upon the Irish coast, and could gather around its banners the wild tribes which followed the native

chiefs. The attempt was made. A Spanish force landed at Kinsale, but it landed only to be cut off by the English army from all communication with the rest of the country. It was finally compelled to capitulate, and returned to Spain, leaving the Irish to their fate.

Elizabeth left the question of peace or war still unsettled. Whatever was to come of it, the next age must take care of itself. Of one thing she felt sure, that no puppet of Spain or of the Jesuits would ever wear the crown of England. Of James she could have had but little hope, but no other claim could have been thought of for a moment. 'My seat hath been the seat of Kings, and I will have no rascal to succeed me,' she said, as she lay upon her deathbed, when her counsellors pressed her to name a successor. When she was pressed to explain her meaning, she declared that her wish was that a King should succeed her. 'And who should that be,' she added, 'but our cousin of Scotland?' Her last act was to hold her hands over her head in the form of a crown, with the intention, as it was thought, of conveying to the bystanders the impression that she would be followed by one who was already a King.\*

Elizabeth's  
death.

Her forebodings were realized. Evil times were at hand. They followed her death, as they had followed the death of her father.

When such Sovereigns as the two great Tudors die, it seems as if the saying which the poet has put into the mouth of the crafty Antony were the rule which prevails in the world —

The evil that men do lives after them ;  
The good is oft interred with their bones.

Errors and follies soon produce their accustomed fruits. But when the error has been but the accompaniment of great and noble deeds, the fruit of those deeds is not long in making its way into the world. Henry VIII. must be judged by the great men who supported his daughter's throne, and who defended the land which he

\* The fullest and apparently the most authentic account is that published in Disraeli's *Curiosities of Literature* (1849), iii. 304.

CH. I.

set free when 'he broke the bonds of Rome.' Elizabeth must be judged by the Pym and Cromwells, who, little as she would have approved of their actions, yet owed their strength to the vigour with which she headed the resistance of England against Spanish aggression. She had cleared the way for liberty, though she understood it not.



## CHAPTER II.

### THE FIRST YEAR OF THE NEW KING.

WITHIN a few hours\* after the death of the Queen a meeting was held at Whitehall. The Privy Councillors had hastened in from Richmond, and summonses had been issued requesting the attendance of the Peers who were in London at the time, together with the Lord Mayor, and a few other persons of note.

CH. II.  
1603.  
Council at  
Whitehall.

As soon as those who had been invited had assembled, a proclamation was produced, which had been composed by Cecil in anticipation of the death of Elizabeth. A copy of it had already been sent to Edinburgh, and had received the approval of James.† After some discussion it was agreed to, and at ten o'clock the whole of the councillors and nobility present went out before the palace-gate, where the proclamation which announced the peaceable accession of James I. was read by Cecil himself in the presence of a large concourse of people.‡ The ceremony was repeated in the city. The countenances of all who witnessed it testified their satisfaction with the step which had been taken. During the time of the Queen's illness watch and ward had been kept in the city. Wealthy men had brought in their plate and treasure from the country, and had put them in places of security. Ships of war had been stationed

Proclamation  
of  
James I.

\* Add. MS. 1786, fol. 5 b.

† *Correspondence of King James VI. of Scotland with Sir R. Cecil and others.* Edited for the Camden Society by J. Bruce, Esq., 47.

‡ Beaumont to the King of France, <sup>March 24,</sup> April 6, 1603. *King's MS.* 123, fol. 18 b.

## CH. II.

1603.

in the Straits of Dover to guard against a foreign invasion; and some of the principal recusants had, as a matter of precaution, been committed to safe custody. All the apprehensions with which men's minds had been filled were now at an end. The citizens showed their confidence in the Government by putting up their weapons, and returning to their several occupations. All over England the proclamation met with a similar reception. If ever there was an act in which the nation was unanimous, it was the welcome with which the accession of the new Sovereign was greeted.

Fourteen  
claimants  
of the suc-  
cession.

Easy as the transition was, men had for some years been looking forward with anxiety to the death of the Queen, and had prognosticated that it would be followed by internal convulsions, if not by a foreign invasion. Curious persons reckoned up a list of fourteen claimants to the crown,\* and not one of them could show a title which was perfectly free from objection. Of these, however, the greater number must have known that they had no chance even of obtaining a hearing, deriving their claims, as they did, from Sovereigns who reigned before Henry VII, and thus, at the very commencement, ignoring the rights of the House of Tudor. The only one of these who had been prominently brought forward was Isabella, the eldest daughter of Philip II. of Spain. Those who asked that a Spanish princess should be placed upon the throne of Elizabeth, urged that she was descended from a daughter of William the Conqueror, from a daughter of Henry II, and from a daughter of Henry III. They also brought forward the fact that her ancestor, Louis VIII. of France, had been chosen to the throne of England, and they argued that his descendants had a right to occupy that throne in preference to the descendants of John.† Such reasoning was by no means conclusive, and the support of her title by the more violent Catholics was not likely to conciliate the nation in her behalf.

Title of the  
Infanta;

In fact, the only doubt which could by any possibility

\* Introduction to the *Correspondence of James VI. with Sir R. Cecil.*

† Doleman (Parsons), *Conference on the Succession*, (1694), p. 151.

be raised was, whether the succession would fall to the House of Suffolk, or to the House of Stuart.

CH. II.

1603.

of the Suffolk line;

The parliamentary title was undoubtedly vested in the Suffolk line. By an Act of Parliament, Henry VIII. had been empowered to dispose of the succession by will; and he had directed that, after his own children and their issue, the Lady Frances, the eldest daughter of his sister Mary, Duchess of Suffolk, should succeed. Failing her and her children, her place was to be taken by her sister Eleanor. After the death of Lady Jane Gray, who was the eldest daughter of the Lady Frances, the claims of the elder branch of the Suffolk line were represented by Lady Jane's next sister, Catharine. If Elizabeth had died before 1587, there can be little doubt that Catharine Gray, or one of that family,\* would have succeeded her. As long as the Queen of Scots was alive, the reasons which had determined the nation to support Henry VIII. in excluding the House of Stuart were still of importance. With the execution of Mary all these objections fell to the ground. There was now no sufficient cause for tampering with the ordinary rule of hereditary succession. If Parliament had been allowed to follow its own wishes, an Act would undoubtedly have been passed securing the succession to James, who was the representative of his great-grand-mother Margaret, the eldest daughter of Henry VII. But the prejudices of the Queen stood in the way. She was determined that in her lifetime no one should be able to call himself her heir. But that when, in the course of nature, she should be removed from the throne, James would be acceptable, with scarcely an exception, to the whole English nation, was undeniable. The desire to return to the regular course was certainly strengthened by the position in which the Suffolk family stood at the end of Elizabeth's reign. There were doubts as to the validity of the marriage of Catharine Gray with the Earl of Hertford, and, consequently, of the legitimacy of his eldest son, Lord Beauchamp. If the marriage should be hereafter proved to be invalid,

\* She herself died in 1567.

CH. II. Lord Beauchamp's claim would be worthless; if, on the  
 1603. other hand, it should be proved to be valid, the claim of  
 any representative of the younger branch of the Suffolk  
 line would be equally worthless.

and of the  
 Stuart  
 line.

Argu-  
 ments in  
 favour of  
 Arabella  
 Stuart.

If the parliamentary title were discarded, the claim of James was certain to prevail. Lawyers indeed had been found who had discovered that his cousin, Arabella Stuart, who was also descended from Margaret, the sister of Henry VIII, had a better title. She had been born in England, whereas James had been born in Scotland. It was a maxim of the English law, they argued, that no alien could inherit land in England. If, therefore, James was incapable of inheriting an acre of land south of the Tweed, he was still more incapable of inheriting the whole realm. A few of the more moderate Catholics would have welcomed the accession of Arabella, as they thought it more likely that they would obtain toleration from her than from a King who had been nursed in the Presbyterian Church of Scotland; but, with this exception, these crotchets of the lawyers met with no response in the nation.

James too  
 eager to  
 raise a  
 party in  
 England.

The only obstacle which was likely to oppose itself to the realisation of the wishes of the people arose from the character of James himself. For some years he was unable to believe that he could obtain the object of his desires without some superhuman effort of his own. He was bent upon getting together a party who would support his claims when the day of trial came. He intrigued with Essex, with Mountjoy, and even with the rebel Tyrone.\* If he did not consent to head an army for the invasion of England, he at all events gave no decided refusal when the proposal was made to him.

\* This letter to Tyrone is among the *Lansd.* MSS. lxxxiv. fol. 79 a. Tyrone's answer is in the *S. P. Scoll.* lxi. 28. The whole subject of the relations between James and the English parties is treated of at some length by Mr. Bruce, in his introduction to the *Correspondence of James VI. with Sir R. Cecil*. These letters add one or two new facts to the history, but their chief value consists in the light which they throw upon the character of Cecil. Nothing can be more instructive than the contrast between the tone of these letters and those of Lord Henry Howard, which have so often, in spite of repeated protests, been taken to represent Cecil's feelings as well as his policy.

From this miserable folly he was rescued by Sir Robert Cecil, who had become, since his father's death, the leading statesman in the English Government. He was in the enjoyment of the full confidence of Elizabeth, and had been entrusted by her with the responsible office of Secretary. He saw at once that it was necessary for England that James should succeed Elizabeth; and he saw also that James must be kept quiet, if he were to be saved from throwing his chance away. He therefore took the opportunity of the presence of a Scottish embassy in London to let James know that he was devoted to his service. A correspondence sprung up, which was kept secret from the Queen, in which he impressed upon James the necessity of avoiding anything like impatience, and assured him that he would answer for his ultimate success. James, who had been prejudiced against Cecil by Essex, and had been led to believe that the Secretary favoured the title of the Infanta, was overjoyed to find that he had gained such a supporter, and submitted for the remainder of Elizabeth's life to be guided by his counsels. This prudent conduct eventually found its reward. When the time came, James was welcomed from Berwick to the Land's End, with scarcely a dissentient voice.

On the day after the proclamation had been issued, Thomas Somerset and Sir Charles Percy were despatched to Edinburgh by the Council to inform the King of all that had passed. It was probably on the following day that a scene took place which, a century earlier, would have been of some importance. The Earl of Northumberland was a man of considerable learning and ability, but hot-headed and impatient of control. A few days before the Queen's death he had been requested, together with Lord Cobham and Lord Thomas Howard, to take part in the deliberations of the Council. He had appeared at the head of more than a hundred men, had talked loudly of the necessity of acknowledging James, and had declared that he was ready to put to death any one who was proposed in opposition to him.\* He now

## CH. II.

1603.

Secret correspondence with Cecil and others.

March 25.

Proceedings of the Council after the Queen's death.

\* Boderie to Villeroi, <sup>June 26,</sup> ~~July 6,~~ 1606, *Ambassades*, i. 181. In an account which

CH. II.  
1603.

stepped forward in defence of the privileges of the old nobility. He had heard that the Privy Councillors had met at the Earl of Nottingham's, in order to take measures for removing the Queen's body to London. He thought this a good opportunity to remind them that, in consequence of the death of the Queen, they had ceased to occupy any official position, until they were confirmed in their places by the new King. He told them that the peerage had too long been treated with contempt, and that they were determined to submit to it no longer. Sir Thomas Egerton, the Lord Keeper, with admirable self-control, at once admitted that his authority ceased with the death of the Queen, and proposed that he, and all the Councillors who were not members of the Upper House, should resign to the Lords their seats at the head of the table. The peers who were present would not hear of this proposal, and everything went on as usual.\*

March 28.

As may be imagined, the Councillors were not anxious to prolong this uncertain position of affairs, and messengers were again despatched to the King begging him to establish some settled Government. Practically, no harm was done. The French ambassador was struck, as his countrymen have often been on similar occasions, with the ready obedience which was paid to authorities who held power by so uncertain a tenure. Even in those days the long exercise of the duties and privileges of self-government enabled Englishmen to pass through a political crisis with a calmness which appeared almost miraculous in the eyes of a foreigner. On the 5th of April, however, the crisis was at an end. The Government was able to inform the people that letters had been received from the King confirming all officers in their places till his arrival in England.

he gave of his appearance at the Council to the King (*Correspondence of James VI. with Sir R. Cecil*, p. 73), Northumberland says nothing of this.

\* I suppose this to be as accurate an account as can be obtained from the conflicting statements contained in *Add. MS.* 1786, fol. 5 b; 718, fol. 34 b, and Beaumont to the King of France, <sup>March 29,</sup><sub>April 6,</sub> 1603. (*King's MS.* 123, fol. 29, b.) The scene certainly took place before the 28th, when the Queen's body was actually removed.

The two gentlemen, who had been selected by the Council, were not the first to carry the great news to Edinburgh. They were anticipated by Sir Robert Carey, who slipped away as soon as he was certain of the death of the Queen. He had previously taken the precaution of having post horses placed along the road, and he hoped to reap a rich reward by being the bearer of the news that his benefactress was no longer able to do him offices of kindness. It is satisfactory to know that, although he was received into favour by James, yet the rewards which he obtained were, in his own estimation, an inadequate remuneration for the services which he rendered on this important occasion.\*

CH. H.

1603.

Sir R.  
Carey  
takes the  
first news  
of the  
Queen's  
death.

The new King, who was thus called upon to fill the throne of Elizabeth, was now in the thirty-seventh year of his age. He was possessed of qualities which, to a superficial observer, would seem to be a sufficient guarantee of a quiet, if not of a glorious, reign. Good-humoured and good-natured, he was honestly desirous of increasing the prosperity of his subjects. His intellectual powers were of no common order. His memory was good, and his learning, especially on theological subjects, was by no means contemptible. If he was pedantic, his pedantry was not much greater than that with which all but the greatest of his contemporaries were infected, in an age when the works of the Greek and Latin authors had but recently been made the subject of study, and when the great writers had not yet arisen who were to adapt their spirit to new forms better suited to modern life. Nor was James deficient in a shrewdness which frequently hit the mark, when others, not inferior to himself in general ability, were totally at fault. From his earliest youth not a syllable was ever whispered by the foulest slanderer against the morality of his life; and though he was certainly not abstemious, he was known to be perfectly free from the vice of drunkenness.†

The good  
qualities of  
James I.

\* *Memoirs of Sir R. Carey*, p. 180.

† The evidence of his physician, Sir T. Mayerne (in *Ellis*, 2 series, iii. 197), is decisive on this point. He drank great quantities of wine, but he did not care about its strength, and his head was never affected by it.

## CH. II.

1603.

His fail-  
ings.

The faults by which these qualities were marred may be referred to one source. There can be no doubt that the scene of terror which had passed before his mother whilst he was yet unborn had an influence upon his whole life. He came into the world imperfect. His body, his mind, and his heart appear alike to have been wanting in that central force by which the human frame and the human intellect are at the same time invigorated and controlled. His ungainly figure was the type of his inner life. Was it possible that this man, rolling about as he walked; perpetually in the hunting field, yet unable to sit upon his horse with sufficient steadiness to avoid constant falls; with his tongue too large for his sputtering mouth—could be possessed of a firm will and of a comprehensive understanding? To the mind of James there was never present any object which he could regard as one for which he was content to live, and for which he was ready to die. No true and lofty faith ever warmed his heart. No pure reverence ever exalted his understanding. When he talked of theology, he seemed to think that he could take religion under his patronage. When he talked of politics, he seemed to imagine that nations could be kept in order by a few clever manœuvres. It fared with him as it will ever fare with such as he was. When the temple of a man's heart is empty, he becomes unconsciously a worshipper of himself. Whilst he thought that he was pursuing the interests of religion and of his subjects, he was, in reality, moulding his conduct by the fancied requirements of his own position, and fashioning it according to the changing moods of his passions and desires.

The same want of moral strength which made him incapable of controlling himself, made it easy for others to abuse his good-nature, provided that they took care not to wound his self-complacency. Whoever would put on an appearance of deference, and would avoid contradicting him on the point upon which he happened to be set at the moment, might lead him anywhere. On the other hand, those who assumed airs of superiority could make no way with him. It is remarkable that, whilst favourite after favourite succeeded in gaining his ear,



his wife, Anne of Denmark, to whom he was certainly attached, and who never failed in obtaining from him the money or the jewels of which she was in want, was during the whole of her life unable to gain any political influence whatever. Greatly to her annoyance, she was obliged to restrict herself to the part of presiding over the revels and amusements of the court. Her eagerness to interfere in what he considered to be his business seems to have irritated him, and she failed to guide because she was not content to influence.

On the 5th of April the new Sovereign set out from Edinburgh. He did not arrive in the neighbourhood of London till the 3rd of May. He must have thought that he had entered upon the government of El Dorado. Every nobleman and gentleman kept open house as he passed. He spent his time in festivities and amusements of various kinds. The gentry of the counties through which his journey lay thronged in to see him. Most of them returned home decorated with the honours of knighthood, a title which he dispensed with a profusion which astonished those who remembered the sober days of Elizabeth. One act of his gave rise to no friendly comments. At Newark he ordained that a cutpurse, who was taken in the crowd, should at once be hanged without form of trial. As he never repeated this mistake, it may be supposed that he was warned by his councillors that he could not violate with impunity the first principles of English law.

The numbers of those who were flocking northwards gave some uneasiness to the Council. To the proclamation in which they announced that the King had confirmed them in their offices they added a paragraph forbidding the general resort to the new Sovereign. It may reasonably be supposed that they had other motives than those which were caused by a desire to save the northern counties from the crowds which threatened to devour all their resources.\* It is not strange that the men who had possessed the confidence of the late Queen, and who had so skilfully held the reins of government

CH. II.  
1603.

James sets  
out from  
Edin-  
burgh.

April 5

\* Cecil and Kinloss, to Lord H. Howard, April 9, (*S. P. Dom.* i. 16.)

CH. II.

1603.

Sir W.  
Raleigh.

during the critical times which were now happily at an end, should have been anxious to be the first to give an account of their stewardship to their new master. A day or two after the issue of the proclamation they put a stop to the journey of the man whom above all others they were desirous of keeping at a distance from the King. Sir Walter Raleigh was setting out at the head of a large body of suitors when he received an order to relinquish his intention.

It is difficult for us at this distance of time to realize the feelings with which Raleigh was regarded by the great mass of his contemporaries. To us he is the man who had more genius than all the Privy Council put together. At the first mention of his name, there rises up before us the remembrance of the active mind, the meditative head, and the bold heart, which have stamped themselves indelibly upon the pages of the history of two continents. Above all, we think of him as the victim of oppression, sobered down by the patient endurance of an undeserved imprisonment, and as finally passing into his bloody grave, struck down by an unjust sentence. To the greater number of the men amongst whom he moved, he was simply the most unpopular man in England. Here and there were to be found a few who knew his worth. Those who had served under him, like his faithful Captain Keymis, and those who, like Sir John Harington, merely met him occasionally in social intercourse, knew well what the loyal heart of the man really was. But by the multitude, whom he despised, and by the grave statesmen and showy courtiers with whom he jostled for Elizabeth's favour, he was regarded as an insolent and unprincipled wretch, who feared neither God nor man, and who would shrink from no crime if he could satisfy his ambitious desires. There can be no doubt that these charges, false and frivolous as they must seem to those who know what Raleigh's true nature was, had some basis in his character. Looking down as he did from the eminence of genius upon the actions of lesser men, he was too apt to treat them with the arrogance and scorn which they

seldom deserved, and which it was certain that they would resent.\*

CH. II.  
1603.

In the latter years of Elizabeth's reign his heart had been set upon becoming a Privy Councillor. Elizabeth was determined that he should not have the object of his wishes. She was glad to have him at hand, knowing as she did the value of his counsel in times of danger, and that there were many services for which it was impossible to find a fitter man; but, at a time when she was herself anxious for peace, she would not trust in the council chamber a man whose voice was still for war.

He, too, turned with hope to the rising sun. Like all true-hearted Englishmen, he saw that the accession of James was indispensable to the safety of the country, and he trusted to find his account in the change. As it was, he must have been miserable enough: he had not a single friend with whom he could cooperate upon equal terms. Northumberland shared his counsels, but refrained from giving him his confidence. The poor mean-spirited Cobham seemed to be the only human being, with the exception of those who were dependent upon him, who attached himself to him at all. He tried to take Cecil into his confidence, and to share his schemes for the furtherance of James' prospects, but Cecil preferred to keep his secrets to himself. He warned him off with a few polite sentences, and told him that he, for one, had no intention of looking forward to such an event as his mistress's death.†

\* Northumberland's testimony is worth quoting, as he was by no means likely to invent stories against Raleigh: 'I must needs affirm Raleigh's ever allowance of your right, and although I know him insolent, extremely heated, a man that desires to seem to be able to sway all men's courses, and a man that out of himself, when your time shall come, shall never be able to do you much good nor harm, yet must I needs confess what I know, that there is excellent good parts of nature in him, a man whose love is disadvantageous to me in some sort, which I cherish rather out of constancy than policy, and one whom I wish your majesty not to lose, because I would not that one hair of a man's head should be against you that might be for you.'—Northumberland to James, *Correspondence of James VI. with Sir R. Cecil*, p. 67.

A much harsher account of him is given in *Sloane MS. 718*. But the most striking evidence is contained in a despatch of Beaumont's to the French King, <sup>April 23,</sup> 1603 (*King's MS. 123*, fol. 94 b.): 'It was said at Court,' he writes, 'that Cecil had procured Raleigh's disgrace, because he was unable to support the weight of his unpopularity.' The story is absurd, but that it should have been invented is significant.

† Cecil to James, *Correspondence of James VI. with Sir R. Cecil*, p. 18. This

CH. II.

1603.

Sir Robert  
Cecil.

With all his good qualities, and they were many, Cecil was not the man to comprehend Raleigh. Himself without a spark of true genius, he was not likely to be able to detect it in others. To his orderly and systematic mind, Raleigh was a self-seeking adventurer, and Bacon an imaginative dreamer. He could no more understand the thoughts which filled their minds, than he could understand why the Catholics ought to be tolerated, or why the Puritan clergy ought to be allowed to break through the established rules of the Church. His ideas on all important subjects were the ideas which had been prevalent at the Court of Elizabeth, at the time when he first grew up to manhood under his father's care. In all the numerous speeches which he delivered, and in all letters which have come down to us, written by his hand, it is impossible, with the closest search, to detect a single original idea. Nor was he more successful in action. Other men of less ability have left their marks upon the history of the constitution. No important measure, no constitutional improvement, connects itself with the name of Robert Cecil. As Bacon said of him, he was *magis in operatione quam in opere*.

It was not altogether his own fault. His education had been against him. Like the Emperors who were born in the purple, he was unfortunately looked upon from his childhood as an hereditary statesman. He had never known what it was to be in opposition. He had never had the inestimable advantage of mixing with his countrymen as one who was unconnected with official position and official men. He was the first and greatest of that unhappy race of statesmen who were trained for their work as for a profession. If he had, like his father, known a time when the Government had been carried on on principles which he detested, he might have risen into a clearer knowledge of the wants of the nation which he was called to guide. Even as it was, he never sank to the level of the Nauntons and the Windebanks, who were to follow.

is the only passage in which he mentions Raleigh. It is not complimentary; but it is very different from the constant abuse of him by Lord H. Howard in the *Secret Correspondence*.

But if the sphere of his vision was limited, within that sphere he was unrivalled by the statesmen of his day. As an administrator, he was unequalled for patient industry, and for the calm good sense with which he came to his conclusions. If he clung to office with tenacity, and if he regarded with undue suspicion those who were likely to be his rivals, he was no mere ambitious aspirant for place, to clutch at all posts the duties of which he was unwilling or unable to perform. The labours which he underwent were enormous. As Secretary, he had to conduct the whole of the civil administration of the kingdom, to keep his eye upon the plots and conspiracies which were bursting out in every direction, to correspond with the Irish Government and to control its policy, and to carry on through the various ambassadors complicated negotiations with every state of importance in Europe. Besides all this, when Parliament was sitting, it was on him that the duty chiefly devolved of making the policy of the Government palatable to the House of Commons, of replying to all objections, and of obtaining the King's consent to the necessary alterations. As if all this were not enough, during the last few years of his life he undertook the office of Treasurer in addition to that of Secretary. Upon him fell all the burden of the attempt which he made to restore to a sound condition the disordered finances, and of mastering the numerous details from which alone he could obtain the knowledge necessary in order to remedy the evil.

To this unflagging industry he added the no less valuable quality of unfailing courtesy. Nothing ever seemed to ruffle his temper. When the great financial scheme for which he had laboured so long, and over which he had spent so many weary hours, was definitely wrecked, he said no more than that he thought the Lord had not blessed it. He was one of those who never willingly wounded the feelings of any man, and who never treated great or small with insolence.\*

\* The Exam. of Sir F. Hastings, Feb. 1805, *S. P. Dom.* xii. 74, is admirably fitted for giving an idea of the characters of Cecil, Howard, and Egerton.

CH. II.  
1603.

Although there are circumstances in his life which tell against him, it is difficult to read the whole of the letters and documents which have come down to us from his pen, without becoming gradually convinced of his thorough honesty of intention. It cannot be denied that he was satisfied with the ordinary morality of his time, and that he no more thought it shame to keep a state secret, or to discover a plot by means of a falsehood, than a naval officer in our own day would think his character for truthfulness impaired because he had been known in time of war to have deceived the enemy by hoisting false signals. On one memorable occasion, indeed, he allowed himself to be carried beyond the bounds even of the conventional morality of the time. But in his ordinary conduct, as far as we can perceive, he seems to have been actuated by patriotic motives. He certainly grasped at power as one who took pleasure in the exercise of it; but he appears, in the main, to have used it for what he regarded as the true interests of his King and country.\*

Nor are we left to his own acts and words as the only means by which we are enabled to form a judgment of his character. Of all the men who had shared in the Government since the accession of Elizabeth, not one has left a more blameless character than the Earl of Dorset. Dorset took the opportunity of leaving upon record in his will, which would not be read till he had no longer injury or favour to expect in this world, the very high admiration in which his colleague was held by him. Of all the statesmen who fell from power during the same period, it has been considered that none was more unjustly treated than Northumberland, and of this injustice the full weight has been laid upon Cecil's shoulders. Yet, a few months after Northumberland was committed to the Tower, his brother, Sir Alan Percy, declared his opinion in a private letter that the removal of Cecil from the Council would be a blow by which the

\* This character must be read under the reservations expressed in the Preface.

position of the Earl would only be changed for the worse.\* CH. II.

1603.

When the order was issued for stopping Raleigh's journey, Cecil probably thought that he had only done a justifiable act in keeping an unprincipled rival away from the King. But more than this was necessary. It was important that the Council should have some one by the King's side who might act for them as occasion might arise. For this purpose they selected Lord Henry Howard.

Lord  
Henry  
Howard.

Of all who gathered round the new King, this man was beyond all comparison the most undeserving of the favours which he received. He was a younger son of the Earl of Surrey, whose death had been the last of that series of executions which marked the reign of Henry VIII; and his brother, the Duke of Norfolk, had expiated upon the scaffold the treason which he had meditated for the sake of the fair face of the Queen of Scots. His nephew was that Earl of Arundel who had died in the prison in which he was confined by order of Elizabeth, and who was revered as a martyr by the English Catholics. His religion was that which openly or secretly had been the religion of his family. But with this he joined a reverence for the royal prerogative, which had certainly never been felt by his kinsmen. There were, indeed, men among the Catholic lords, such as the Earl of Worcester, whose loyalty was unimpeached. But Howard would not be content with the unobtrusive performance of duties with which these men had been satisfied. In an age when what we should call the grossest flattery was used as frequently as phrases of common civility are by us, he easily bore away the palm for suppleness and flattery. Long ago he had attached himself to James, and he had been by him recommended to Cecil. It would be curious to know how far the feeling with which Cecil regarded Raleigh was owing to the influence of his worthless companion. Certain it is that Howard hated Raleigh with a perfect hatred, and that Cecil's estrangement

\* Sir A. Percy to Carleton, Sept. 4, 1603, *S. P. Dom.* xxiii.

CH. II.  
1603.

from that great man began about the time when he was first brought into close communion with Howard. Yet with all his faults, the man was no mere empty-headed favourite. He was possessed of considerable abilities, and of no small extent of learning. He took his share in the duties of Government with credit, but, as long as Cecil lived, he was obliged to be content to play a secondary part.

April 15.  
Raleigh  
dismissed  
from the  
captaincy  
of the  
guard.

A few days later Cecil himself went down to meet the King. He had not been with him long before Raleigh learned that he was not to retain his position as Captain of the Guard. There can be little doubt that James was guided in this step by Cecil and Howard. On the other hand, it was natural enough that he should wish to see a post of such importance about his own person in the hands of one of his countrymen. The command was given to Sir Thomas Erskine, who had already filled the same office in Scotland. Raleigh was compensated for his loss by the remission\* of a payment of £300 a year, which had been charged upon his government of Jersey, and of large arrears of debt which he owed to the Crown.

If Raleigh could have seen it in its true light, those who had cut him off from a courtier's life had in reality rendered him the highest service which lay in their power. There was work before him wherever he turned his eyes far nobler than he could expect to find at the Court of James. If the doors of the Council Chamber were closed to him, the House of Commons was open. If England was not large enough for his genius, his own Virginia would welcome her founder to be the captain, the legislator, and almost the monarch of a new world. To all this his eyes were blinded. Mad with rage, he determined to make one more bold stroke for the prize which had been filched from him at the moment when he thought that he had it in his hands. He sat down and wrote a wild letter to the King. He fancied that James was still attached to the memory of Essex, and he thought that he could win him by throwing

\* Cecil to Windebank, May 21, *S. P. Dom.* i. 93.



all the blame of that nobleman's death upon Cecil, and by pleading his own innocence. He then proceeded to rake up the story of the execution of the King's mother, and to lay the blame upon Cecil as well as upon his father; upon Cecil, who at the time was a young man of twenty-four, and who had had no more hand in the matter than Raleigh himself.\*

CH. II.

1603.

On the 3rd of May the King arrived at Theobalds, a house of Cecil's, not far from London. He seems to have come with a vague desire of benefiting the kingdom over which he was summoned to rule. He had already ordered that Southampton, and the remainder of those who were imprisoned for their share in the Essex rebellion, should be liberated. Four days after his arrival a proclamation was issued, concerning those monopolies which still remained in force, commanding all persons to abstain from using them until they could prove to the satisfaction of the Council that they could be exercised without any prejudice to the King's subjects. In consequence, the patentees were all heard before the Council, and the greater part of the still existing monopolies were called in. This proclamation

Proceedings of James on his arrival.

May 1.

\* The existence of this letter rests upon a note of Welwood's to Wilson's James I., in *Kennet*, ii. 663. He says he had seen a MS. of Buck's, secretary to Egerton, in which he mentions this memorial. This evidence has not been thought by Raleigh's admirers to be very good, but it seems to be put beyond doubt by a passage in a despatch of Beaumont to Villeroi, <sup>April 22.</sup> <sup>May 2.</sup> 1603. *King's MS.* 123, fol. 94 b. He says that Raleigh had been dismissed, 'dont le dite Sieur Rallé est en une telle furie, que partant pour aller trouver le Roy, il a protesté de luy declarer et faire voir par escrit toute la caballe, et les intelligences qu'il dit que le Sieur Cecil a dressées et conduittes à son prejudice.' Another story of Raleigh I have less belief in. Osborne speaks of him, in common with Cobham and Fortescue, as wishing, apparently before the proclamation of the morning of the 24th of March, 'to bind the King to articles,' which were in some way to be directed against the advancement of Scotchmen. This has been magnified into a constitutional opposition, which it certainly was not; as the Council had no constitutional power to bind the King, and anything they might do would have been treated by James as a dead letter. Raleigh, too, does not seem to have been present, as his name does not appear among those who signed the proclamation, though he was admitted at a consultation in the evening, and signed the letter to the King, then written (*Spottiswoode*, Spottiswoode Society's Edition, iii. 133.) Perhaps the story is founded on some language used by Raleigh after he was superseded by Erskine. Fortescue also had to make room for Sir George Hume as Chancellor of the Exchequer, which would account for the introduction of his name.

CH. II.

1603.

Cecil  
raised to  
the peer-  
age.Quarrels  
between  
Scotch and  
English.Peace or  
war with  
Spain ?

was another blow to Raleigh. A large part of his income was derived from the possession of the sole right of granting licenses for the sale of wine, and, at least, till the Council had decided whether such a source of profit was to be considered as a monopoly, he was deprived of this portion of his yearly revenue.

On the 13th of May Cecil received an acknowledgment of his services, being raised to the peerage by the title of Lord Cecil of Essendon. Three other barons were created at the same time. These were the first of a series of creations which raised the numbers of the House of Lords with a rapidity which would have astonished Elizabeth.

During these early days of the new reign the court was agitated by the claims made by the crowd of Scotchmen which had accompanied the King. As yet, however, it was a mere courtiers' question, in which the nation took little part. All the great offices of State were still in the hands of Englishmen. One Scotchman, indeed, Lord Kinloss, became Master of the Rolls; another, Sir George Hume, became Chancellor of the Exchequer and Master of the Wardrobe. But there, so far as public offices were concerned, the promotions which fell to the share of James's countrymen ceased. The seats which some of them received in the Privy Council were for the most part little more than honorary, and do not seem to have given them any great influence over the conduct of affairs. It was as Gentlemen of the Bedchamber, as Masters of the Harriers, and as holders of similar posts about the King's person, that they provoked the wrath of Englishmen who aspired to these positions. It was not till the sums which should have been applied to national purposes were squandered upon favourites of both nations that the discontent became general. Cecil did his best to put an end to these quarrels, but he did not meet with much success.

A difficulty of far greater importance was the question of peace or war with Spain. As far as England was concerned, with the exception of the disputed right to trade in the East and West Indies, there was absolutely no reason whatever for continuing the war. The failure

of the Spaniards in their attempt to gain a footing in Ireland had been complete, and they could no longer cherish any hopes of success in a similar undertaking. The new King, Philip III., sluggish and incapable as he was, was not likely to attempt to renew his father's aggressive policy, and it was known that the all-powerful minister Lerma was anxious to recruit by peace the exhausted strength of the kingdom. Under these circumstances there wanted little more to constitute a treaty between the two powers than the few lines in which the simple announcement might be made that hostilities were at an end.

CH. II.

1603.

The difficulty which stood in the way was caused by the interminable war in the Netherlands. Since the murder of Henry III. the Dutch had taken advantage of the diversion which had called away the best generals and the finest soldiers of Spain to spend their strength in a vain struggle against the rising fortunes of Henry IV., and had pushed on under the able leadership of Maurice, and the no less able statesmanship of Barneveldt, till they had swept the Spaniards from the soil of the Seven United Provinces. At last the whole war gathered round Ostend. All the skill and vigour of the Dutch, and of their English allies under the command of Sir Francis Vere, were put forth in defence of that bulwark of the Republic. The siege had now lasted for no less than three long years. With all his military skill, Spinola was still unable to force an entrance. But the Dutch were calling loudly for assistance, and declared that unless succour were promptly afforded, Ostend must fall, in spite of the valour of its defenders, and that after the fall of Ostend their own territory would become untenable.

The war in  
the Ne-  
therlands.

There was a large party in England which was desirous to fight the quarrel out with Spain. The feelings of the nation were against terminating the war. To most Englishmen Spain was the accursed power which had filled two continents with bloodshed. It was the supporter of the Pope, and of all the tyranny and wickedness under which the world was suffering. This evil power was now weakened by repeated failures.

The war  
party in  
England.

## CH. II.

1603.

Why not strike one more blow for the cause of God, and hew the monster down? Such feelings found a worthy spokesman in Raleigh. In a paper,\* which, in the course of the spring, he drew up for presentation to James, he argued with his usual ability for the good old cause. Especially, he pleaded strongly for the Dutch. They had been allies of England in the weary hours of doubt and difficulty. Together, the two countries had borne the burden of the day. It was disgraceful; it was infamous for Englishmen to desert their brothers now that hope was beginning to appear.

Opinions  
of James.

Of the grand spirit of righteous indignation which had animated the Elizabethan heroes in their conflict with Spain, James knew nothing. Partly from a genuine love of peace, partly from a feeling of his own incapacity to direct the conduct of a war, he declared for peace immediately upon his arrival in England. He issued a proclamation forbidding the capture of Spanish prizes, and waited for the overtures which he expected from the Court of Spain. Besides this eagerness for peace, he was possessed with the idea that the Dutch were engaged in an unlawful resistance to their lawful King, an idea in which the bishops did their best to confirm him.† He was never weary of repeating publicly, to the disgust of the statesmen who had taken part in the counsels of Elizabeth, that the Dutch were mere rebels, and that they deserved no assistance from him.

Cecil's  
views.

It is difficult to ascertain with precision what Cecil's views really were. Of the memorial ‡ which he presented to the King, in which he expressed his thoughts on foreign affairs, a fragment only has been preserved. From that fragment, however, it is plain that he fully shared all Raleigh's dislike of Spain, and that he was anxious, by all possible means, to check the progress of the Spanish arms in the Netherlands. But he looked upon the whole subject with the eye of a statesman. The lost pages of the memorial probably contained the reasons why it was impossible for England to continue

\* 'A Discourse touching a War with Spain.'—*Works*, viii. 290.

† The King to Abbot. *Wilkins' Conc.* iv. 405.

‡ *S. P. Dom.* i. 17.

the war. He knew, as Elizabeth had known, that England could not bear many more years of war. Parliament had voted supplies with no ordinary alacrity, but even these supplies had not relieved the Queen from the necessity of raising money by extensive sales of Crown property, and by contracting loans which were waiting for a speedy repayment. The revenue of the Crown was decreasing, and with the very strictest economy it was impossible for the new King to bring even a peace expenditure within the limits of the revenue, as he had received it from his predecessor. If Spain was to be driven out of the Netherlands, Parliament must be prepared to vote supplies far larger than they had ever granted to Elizabeth, in times when England itself was in danger.

CH. II.  
1603.

Financial  
difficulties.

As far as we can judge by the reports of his language which have reached us through the unfriendly medium of the despatches of French ambassadors, Cecil was anxious to see a peace concluded which would relieve England from the burden of an objectless war, and at the same time, to put a check on the encroachments of Spain. The scheme which he would perhaps have preferred, had it been practicable, was the union of the whole of the seventeen provinces under an independent Government, which would be strong enough to bid defiance to France as well as to Spain.\* Such a scheme has always found favour in the eyes of English statesmen. But in 1603, the project would certainly have met with even less success than it did in 1815. Philip II. indeed had, shortly before his death, taken a step which was intended to facilitate such a settlement. He had made over the sovereignty of the Netherlands to his eldest daughter Isabella and her husband the Archduke Albert, a younger brother of the Emperor Rodolph II. He hoped that the rebels, as he still styled them, would be ready to come to terms with his

The Ne-  
therlands  
difficulty.

\* This is undoubtedly the meaning of Rosny, when he says that Cecil, with Egerton and Buckhurst, were 'tous d'humeurs anciennes Angloises, c'est à dire ennemies de la France, peu amies de l'Espagne, et absolument portées pour faire resusciter la maison de Bourgogne.' — *Econ. Roy.* iv. 431, col. Petitot.

CH. II.  
1603.

daughter, though they were unwilling to treat with himself. But even if the Dutch had felt any inclination to submit to a Catholic Sovereign, there were especial reasons which warned them from accepting the dominion of the Archdukes, as they were called. Their sovereignty was hampered with so many conditions, and the presence of Spanish troops at the seat of war reduced them to such practical impotence, that it was almost a mockery to speak of them as independent rulers. Besides, no children had been born to the marriage, and the reversion of their rights was vested in the Crown of Spain.

The Dutch had another plan for uniting the seventeen provinces under one government. Let but France and England join in one great effort, and in the course of a year not a single Spanish soldier would be left in the Netherlands.

Was this a policy which an English Government would be justified in carrying out, certain as it was to try the energies of the nation to the utmost? The obedient Provinces were not what the Austrian dominions in Italy are in our own day; countries full of vigorous life, and only held back by brute force from reuniting themselves to the nation from which brute force alone has severed them. The dull, demoralising tyranny of the sixteenth century had done its work too well. To form a republic which should include the Spanish Provinces would be to realise the fable of the old Italian tyrant, and to bind the living to the dead. This was no work for which England was bound to exhaust her strength.

The true policy of England undoubtedly lay in another direction. If it were once understood that no peace would be made unless the independence of the existing republic were recognised, Spain would certainly submit to the proposed terms. The free North would retain its liberty, the paralysed South would slumber on under the despotism which it had been unable or unwilling to shake off.

The Dutch  
embassy.

It was not the fault of the English Government that this inevitable settlement was postponed through so

many years of war. The first embassy which arrived in England to congratulate the new King upon his accession was one from Holland. Barneveldt himself had come to see if any help could be obtained from James. Cecil told him plainly that the King desired peace, but that he was ready to consider the case of the States in the negotiation. The Dutch ambassadors answered that peace with Spain was impossible for them. It was no wonder that after all the trickery which they had experienced, they should feel a dislike to enter upon a treaty with their enemy, but they can hardly have expected James to engage himself in an interminable war. Their immediate purpose was, however, to obtain succour for Ostend. Barneveldt seems to have made an impression upon the susceptible mind of James, and was, perhaps, the first who induced him to doubt the truth of the sweeping condemnations which he had been accustomed to pass on the cause of the Dutch. He was told, however, that nothing could be finally settled till the arrival of the special embassy which was expected shortly from France. The ambassador who had been chosen by Henry IV. was the celebrated Rosny, better known to us by his later title as the Duke of Sully. His main object in coming was to induce James to afford some succour to Ostend.

Rosny's mission from the King of France.

About the time of his arrival in England, a circumstance occurred which was more favourable to his design than any arguments which it was in his power to use. A priest named Gwynn\* was taken at sea, and confessed to his captor that his intention in coming to England was to murder the King. The readiness with which he gave this information gives cause for a suspicion that he was not in the full possession of his senses. However this may have been, it was, at least, certain that he came from Spain, and the fright which this affair caused the King, predisposed him to listen to Rosny's stories of Spanish treachery.†

\* Cecil to Parry, May 25, *Cott. MS. Cal. E. x. 59*. Rosny to the King of France, June 24, *Econ. Roy.* iv. 329.

† Cecil to Parry, June 10, *S. P. Fr.* St. Aubyn to the Council, June 6. Godolphin and Harris to the Council, June 23, 1603, with enclosures, & *P. Dom.* ii. 3, 15.

CH. II.

1603.

Rosny requested  
not to appear in  
mourning.

On the occasion of Rosny's first presentation to James, a curious incident took place. He had come prepared to put himself and his suite into mourning for the late Queen. Just as he was about to leave his apartments, he was informed that the King would be better pleased if he did not come in mourning.\* There was nothing for it but to submit. The Frenchmen drew their own inferences as to the repute in which the great Queen was held at the court of her successor. Many months were not to pass away before James would speak more reverently of Elizabeth than he was, at this time, accustomed to do. Unfortunately, when that time came, it was chiefly the errors in her policy which attracted his respect.†

Rosny's  
instructions.

Rosny's instructions authorised him to use all means in his power to induce James to unite with France and the Dutch Republic in opposing the designs of Spain. Henry IV. was not indeed prepared at once to embark on a war with his powerful neighbour; but he was desirous of giving a secret support to the Dutch, and he hoped that James might be induced to pursue a similar course. If, however, it should happen that James preferred to continue the war, Rosny was to discuss the best means of carrying it on, without coming to any final resolution. He was also to propose that the alliance between the two Crowns should be strengthened by a double marriage—of the Dauphin with James's only daughter, the Lady Elizabeth; and of Prince Henry with Elizabeth, the eldest daughter of the King of France.‡

After some little time had been spent in negotiations,

\* James seems to have had a general dislike to anything which reminded him of death. When his son Henry was dying he left London, rather than be present at the death-bed. He did not allow many weeks to pass after the death of his Queen, in 1619, before he threw off his mourning, to the astonishment of the ambassadors who had come prepared to offer their condolences. Taken separately, each of these circumstances has been interpreted as a sign of the King's feelings in the particular case. But it is more probable that his conduct was the result of a weakness which occasionally shows itself in feeble minds.

† Barlow tells us that at the Hampton Court Conference James never mentioned Elizabeth's name without adding some respectful title. He does not appear to have relapsed into his previous misplaced contempt.

‡ Sully, *Econ. Roy.* col. Petitot, iv. 261.



Rosny obtained from James some part of that which he had been commissioned to demand. James promised to allow the levy of soldiers in England and Scotland for the defence of Ostend, but it was agreed that Henry should defray the expenses of this force, though a third part of the cost was to be deducted from a debt which he owed to the English Government.\* With respect to the double marriage nothing was settled. James, on one occasion, drank to the success of the future union; but all the four children were still very young, and there was no necessity of coming to any immediate decision.

CH. II.

1603.

Treaty  
with  
France.

On the 21st of July, two members of the Privy Council were raised to the peerage. The Lord Keeper Egerton, who was now dignified with the higher title of Chancellor, became Lord Ellesmere; and Lord Thomas Howard, who, as well as his uncle Lord Henry, had been admitted to the Council, was created Earl of Suffolk. He had served with distinction at sea in many of the naval expeditions which had been sent forth during the latter years of the late reign. He was known as a well-meaning, easy-tempered man, of moderate talents. It is possible that Lord Henry's known attachment to the religion of his father† may have influenced James in selecting the nephew rather than the uncle as the first recipient of such honours amongst the family of the Howards. It was not till some months later that Lord Henry was raised to the peerage. The young head of the family, too, received back his father's lost honours, and the name of the Earl of Arundel was once more heard amongst those of the English nobility.

Creation  
of peers.

During the month of July the Council was busy in tracking out a Catholic conspiracy which had come to light. In order to understand in any degree whatever this extraordinary plot it is necessary to be acquainted

Expecta-  
tions of  
the Catho-  
lica.

\* Dumont, *Corps Diplom.* v. part 2, p. 30.

† Strictly, perhaps the religion of his father, that is to say, the Anglo-Catholicism of the reign of Henry VIII., with perhaps a feeling that the Catholicism of Rome was the only complete form in which it was possible to embrace the system. But the real opinions of such a man must always be an enigma.

CH. II. with the feelings of the men by whom it was concocted.  
1603.

There can be no doubt that the English Catholics expected great things from the accession of James. What exact promises had been made to them it is impossible to say. James was never very accurate in the use of words, and we have no means of knowing what the words were which he really used. It is possible that he may have deceived them; it is also possible that they may have deceived themselves.

The letter  
to the  
Pope.

As long as he was uncertain of obtaining the support of the English nation, he was undoubtedly anxious to conciliate the Catholics, who would, as he thought, rally round his standard if it should be necessary, upon the event of the death of Elizabeth, to appeal to arms. In 1599 he was desirous of opening negotiations with Rome, and, at the suggestion of his secretary, Sir James Elphinstone, he directed that letters should be prepared, addressed to the Duke of Florence, the Duke of Savoy, and some of the Cardinals. He entreated them to use their influence with the Pope to obtain the appointment of the Bishop of Vaison—a Scotchman, named Chisholm—to the Cardinalate. The new Cardinal was to be used in carrying on the intercourse between the King and the Pope. Elphinstone\* begged the King to write

\* As is well known, Bellarmin subsequently, in answering a work of James's, said that there was good reason for supposing that James was a Catholic at his accession. For this belief he gave two reasons, that James, or at least his ministers, had given assurance that he would change his religion, and that he had written a letter to the Pope for the appointment of the Bishop of Vaison. By the first of these reasons James is not necessarily touched. From the second he felt himself bound to vindicate himself. Lord Balmerino (for that was the title which Elphinstone subsequently bore) with some difficulty was brought to confess the fact, that he had obtained the King's signature to the letter surreptitiously. It has been supposed that he did this collusively, under fear of losing his life or liberty, on an untrue charge. That there was collusion is manifest. He was to be freed from penalties if he would confess. There seem to have been some minor circumstances in the confession drawn up for him, which he, as he said, did not remember, and which may possibly have been false. But further than this I cannot go. In *Caldewood*, vi. 788, is an account written by Balmerino himself, giving all the official papers which passed between him and the King, with the speeches in the Star Chamber. In this he not only avows what he had done, but he justifies it. It is evident that this paper was not written in the interests of the King, for it plainly states that James had entered into the negotiation, and therefore he was in spirit, if not literally, guilty of the charge

to the Pope himself. James refused, not from any scruple about negotiating with the Pope, but because he did not believe that it was justifiable to address a letter to him as 'Holy Father.' Elphinstone, who was anxious that the letter should be sent, slipped it in amongst the others which were awaiting James's signature, as he was going out hunting, and took care to have the Pope's titles added afterwards.

CH. II.  
1603.

This letter, with the instructions which were given to Sir Edward Drummond, who was to carry the letters to the Cardinals and the Italian Dukes, are extant.\* They contain nothing which was not perfectly true. James was anxious for the good opinion of the Pope. He wished that the Bishop of Vaison should be made a Cardinal, and the bearer would inform those to whom he was sent that James had no desire to persecute the Catholics. This last statement was in accordance with the facts of the case, if we understand the word persecution in the sense in which it was understood by James. Though he insisted upon an outward conformity, he had frequently, when it was in his power, opposed any more violent measures against his Catholic subjects, and had, in consequence, become an object of suspicion to the Scottish clergy.

Whether he gave any distinct promises of toleration must remain uncertain. It must also be uncertain whether, if he did so, he did not at the time† mean

which Balmerino brought against him. It seems to have been an account written in his justification for use among his own friends. I cannot conceive any reason for doubting that it contains the truth on the matter. The refusal to style the Pope 'Holy Father' is characteristic of James. (See Nicholson to Cecil, [Sept.] 1598, *S. P. Scott*. lxiii. 23. James to Elizabeth, *Correspondence of Elizabeth and James VI*. 152. Sully *Econ. Roy*, iv. 348.) That the letter was written without the King's knowledge, appears also from Balmerino's language in asking Yelverton's legal opinion. (*Add. MS.* 14,030, fol. 89). It is true, that he speaks of what he did being 'reputed very good service while it was a doing, and only kept close at that time for the offence of the late Queen and this state,' but as he distinctly acknowledges obtaining the signature surreptitiously, this must refer to the correspondence generally with the cardinals and the Italian princes.

\* Calderwood, v. 740.

† Nothing is more often forgotten than that in investigating the question of James's hypocrisy in any given case, no sufficient proof that he was consciously lying, is to be derived from the fact that his words were inconsistent with something that he had said twenty-four hours before.

CH. II.  
1603.

James's  
opinions  
on tolera-  
tion.

what he said. His scrupulousness about the title by which the Pope was to be addressed shows, at least, that he had no intention of entering upon a regular course of hypocrisy.

We have better means of knowing what James thought on the subject of toleration shortly before the death of Elizabeth. In a letter addressed to Cecil,\* he told him, precisely as he told his first Parliament a year later, that he was unwilling that the blood of any man should be shed for diversity of opinion in religion, but he was also unwilling that the Catholics should become sufficiently numerous to oppress the Protestants. He would be glad that priests and Jesuits should be banished, and that all further spread of their religion might be quietly put a stop to without persecution.†

Such a scheme was, of course, thoroughly unpractical; but the man who entertained it may have thought that in carrying it out he would confer a vast benefit upon

\* *Correspondence of James VI. with Sir R. Cecil*, p. 36.

† Since these pages were written, I have met with the following extract, written, at the time of Balmerino's disgrace, by a Jesuit who must have been possessed of good information. It is curious as taking precisely the same view of James's conduct as that which I have been led to take:—'As touching the President's, "i.e. Balmerino's," confession to have sent the despatch to Pope and Cardinals without His Majesty's consent or commandment, I will not melle me with that, nor anything what it may merit. But because I assisted Mr. Edward Drummond in all that negotiation, thinking it to be to the King's weal and service, and communication of all the letters that were brought for that affair, I thought it expedient to inform you of the verity of all. There was nothing wrought in that negotiation which was not thought to be for the King's Majesty's service, which was to procure the Bishop of Vaison's advancement to the degree of Cardinal, to the end that His Majesty should have in the College of Cardinals one of his true and faithful subjects to advance His Majesty's service, and dash and stop that which might be to his prejudice; and specially that they should not excommunicate His Majesty, or absolve his subjects from his obedience, as there was some at that time busy to procure it. . . . . It was not given to understand to the Pope that the King's Majesty was in any disposition either to come [sic] or favour the Catholic religion, for the contrary was contained expressly in the letters, . . . saying that albeit he remained constant in that religion in the which he was nourished from his cradle, yet he would not be enemy or persecutor of the Catholics, so long as they should remain faithful and obedient subjects unto him. As, indeed, His Majesty had ever done, until the horrible and barbarous conspiracy of the Gunpowder. For as Scotland, to them of our order who are holden the most odious and persecuted to the death by the ministers he did never use more rigour nor to banish them out of the country, and constrain their parents to oblige them under pain to cause them depart.' W. Creighton to A. Murray. *Botfield's Original Letters relating to Ecclesiastical Affairs*, i. 180.

the Catholics. There were to be no more executions of priests. They would all be put on board ship, and, of course, would never think of returning. The laity would live contentedly in the absence of the ministrations of the priests. They would cease to pay the heavy fines to the Government, and, in all probability, Popery would gradually die out of itself.

Under the influence of this day-dream, James may well have unconsciously deceived those who applied to him to know what he intended to do. He would tell them that their situation would be greatly improved under his rule, and he plainly believed that this was true.

The evils under which the English Catholics laboured were of no ordinary description. In the first place, not only was all public celebration of their worship interdicted, but the mere fact of saying mass was sufficient to bring the priest under the penalties of treason, and those penalties were extended to all who should assist or 'comfort him,' as the law expressed it. As there were few Catholics who had not at some time or another been present at a mass, the power of the Government to send the whole number of them to execution was only limited by the difficulties of obtaining evidence. If they failed in this, the Ecclesiastical Courts could always issue an excommunication for simple recusancy, or abstaining from attendance upon the Church by law established, and upon this the Civil Courts were empowered to commit the recusant to prison until he submitted. Of course, these harsh measures were only very sparingly employed. But if the penalty did not fall upon all who were threatened, it was kept constantly hanging over their heads, and the Catholics were always liable to arbitrary imprisonments and fines, of which they did not dare to complain, as they were allowed to escape without suffering the full penalty of the law.

But, besides all this, there was a regular system of fines for recusancy authorised by statute. In the first place, all recusants who had sufficient property were liable to a fine of £20 a month. Of those who were so liable at the death of Elizabeth the number was only

CH. II.

1603.

Grievances  
of the  
English  
Catholics.

The recu-  
sancy  
fines.

CH. II.  
1603.

sixteen. Those who could not pay such large sums, forfeited, if the Government chose to exact the penalty, two-thirds of their lands, during their lifetime, or until they conformed. This land was leased out by Commissioners appointed by the Crown for the purpose, and the lessee paid a certain rent into the Exchequer. There still remained another mode of reaching those who had no lands to lose, as the goods and chattels of any person convicted of recusancy might be taken possession of by the Crown.

Hopes of  
better  
treatment  
by James.

Under such an abominable system, it is no wonder that the Catholics were anxious for any change which might improve their condition, and that they were hardly likely to acquiesce in the doctrine that they were only punished for treason, and not for religion. It was natural, therefore, that both the Pope and the English Catholics should look with hopefulness to the new reign. Both the declarations which James had made, and the manner in which he had acted in Scotland, made many of them expect to find a protector in him.

As Elizabeth's reign drew to a close, the Pope prepared to despatch the Bishop of Vaison into Scotland.\* An opportunity was, however, offered of communicating with James by another channel. Sir James Lindsay, a Scotch Catholic, who ordinarily resided at Rome, set out in 1602 to pay a visit to his native country. The Pope entrusted him with a letter to James, in which nothing was contained beyond mere compliments, and directed him to assure the King of his friendship, and to inform him that he had done his best to remove all obstructions which might lie in the way of his accession to the throne of England. He concluded by expressing a wish that if James would not himself forsake the Protestant faith, he would at least permit his eldest son to be educated in the Catholic religion.† Upon Lindsay's arrival, James refused to open the Pope's letter, or to listen to the

\* James to Elizabeth, *Correspondence of Elizabeth and James VI.* 153.

† The King to Parry, Tierney's *Dodd.* iv. App. lxvi. Cranborne to Lennox, Jan. 1605, *S. P. Fr.* The proposal about Prince Henry's education had first been broached in the pretended commission of Pury Ogilvy, *S. P. Scott.* lviii. 81.

messenger, as it was not fit that he should receive a letter from one who assumed titles which it was impossible for him to recognise.\* Ultimately, however, he gave way, and having heard what Lindsay had to say, returned a verbal answer, giving him at the same time a paper of instructions for his guidance. In these he was directed to tell the Pope that 'the King could not satisfy his desire in those particular points contained in his letter.' He was much obliged to him for his courtesy, and hoped to be able to return it. He would never dissemble his own opinions, and would never reject reason whenever he heard it.† Lindsay was prevented by illness from returning, and the Pope received no answer to his proposal till after the crisis had passed.‡

CH. II.  
1603.

The Pope was, of course, careful not to mention that he had, not long before, sent two breves to Garnet, the Provincial of the English Jesuits, in which directions were given that, as soon as Elizabeth died, the Catholics should take care that, if possible, no one should be allowed to succeed except one who would not only grant toleration, but would directly favour the Catholic religion. When Garnet received these breves, early in 1602, he was at White Webbs, a house frequented by the Jesuits, in Enfield Chase. He was there consulted by Catesby, Tresham, and Winter, men whose names afterwards became notorious for their connection with the Gunpowder Plot, as to the propriety of sending one of their number to the King of Spain, in order to induce him to

The breves  
to the Eng-  
lish Catho-  
lica.

\* James to Elizabeth, *Correspondence of Elizabeth and James VI.* 151. This might only have been to put Elizabeth off the scent; but this touchiness about titles is so characteristic of James, that I am inclined to believe the story.

† Instructions, Oct. 24, 1602, *S. P. Scotl.* lxi. 20. There can be no reasonable doubt that these instructions were actually given in Scotland.

‡ In the spring of 1603 the Bishop of Vaison was in Paris. There is a curious account in a letter of the Laird of Indernyty to James, (*Jan. 20, 1603, S. P. Scotl.*, lxi. 56, i.) of a conversation between himself, the Bishop and the Nuncio at Paris. The Nuncio was doubtful as to James's intentions, and said, 'he would suspend his judgement till Sir J. Lindsay returned.' This shows that no message had been sent by another hand upon Lindsay's illness, as would have been the case had James been anxious to win the Pope by hypocritical promises.

CH. II.  
1603.

attempt an invasion of England. Winter was selected, and though Garnet, according to his own account, disapproved of these proceedings, he gave him a letter of introduction to Father Cresswell, at Madrid. Winter found a good reception in Spain; but Elizabeth died before any preparations were made. Garnet saw that there was no chance of resisting James, and burnt the breves.\* Another mission was sent to Spain, but the King was now anxious for peace with England, and would give no assistance.

Letters of  
Northum-  
berland.

Towards the end of 1602, or in the beginning of the following year, an attempt was made in another quarter to obtain a promise of toleration from James. Northumberland is described as a man who did not care much about religion himself, but he was closely connected with several Catholics, who urged him to obtain a promise from the King that he would do something to improve their condition. He accordingly sent a relation of his, Thomas Percy, to James, with a letter in which he professed his readiness to stand by his title, and after giving him much good advice, he added that 'it were pity to lose so good a kingdom for not tolerating a mass in a corner.'† Percy, on his return, gave out that toleration had been promised by James. Of course we cannot tell what passed between them in conversation, but it is rather strange that in James's answer to Northumberland not a word is to be found referring to his proposal on this subject.‡ Northumberland, who continued the correspondence, again pressed the matter upon the King, This time he received an answer. 'As for Catholics,' wrote James, 'I will neither persecute any that will be quiet and give but an outward obedience to the law, neither will I spare to advance any of them that will by

\* Tierney's *Dodd*. iv. App. ii. Jardine, *Gunpowder Plot*, App. iii.

† *Correspondence of James VI. with Sir R. Cecil*, 56. The identification of this letter with the one sent by Percy, rests partly upon James's description of the bearer, in his answer (p. 61), and partly on a reference to that answer in Coke's speech at Northumberland's trial. — See Appendix I.

‡ Unless, indeed, as Coke said, James meant to refuse it when he said that he did not intend to make 'any alteration in the state, government or laws.' From the place which this sentence occupies in the letter, I do not think that it was intended to bear any such meaning.



good service worthily deserve it.' It is plain that though to a sanguine mind these words might seem to convey a promise of toleration, there was nothing in them really inconsistent with James's intention of deporting every priest in England.\*

CH. II.  
1603.

Another person who visited James in Scotland was William Watson, one of the secular priests who had been very busy in his opposition to the Jesuits, and had taken a considerable part in the strife which had divided the English Catholics during the last years of Elizabeth's reign. A vain, unwise man, his one predominant feeling was a thorough hatred of the Jesuits. If they looked favourably upon the title of the Infanta, he would declare for the King of Scots; as, in all probability, if they had supported James, he would have done his best to forward the claims of some other candidate. There is no evidence that James ever mentioned the word 'toleration' to him. 'He received,' as he tells us, 'a gracious and comfortable answer on behalf of all Catholics known to be loyal subjects.'† Armed with this promise, and probably exaggerating its meaning, he busied himself in persuading the Catholic gentry to whom he had access to support James's title, and to turn a deaf ear to the machinations of the Jesuits; and he flattered himself that it was owing to his influence that all over England the Catholics were among the foremost who supported the proclamation which announced the accession of the new King.

Watson's  
visit to  
James.

After James had been proclaimed, Watson set himself to counteract the real or supposed intrigues which the Jesuits were carrying on in favour of Spanish interests. Soon, however, news came from the north which inspired him with misgivings. James had found out that, determined as the whole nation was to support his cause, the Catholics had put rather too high a value upon the assistance which they were able to render. 'Na, na,' he had been heard to say, 'we'll not need the Papists

Watson  
doubts  
whether  
James will  
keep his  
promise.

\* *Correspondence of James VI. with Sir R. Cecil*, 75.

† The most important part of the confessions upon which this narrative rests, is published in Tierney's *Dodd*. iv. App. 1. Some further particulars will be found in Beaumont's despatches.

CH. II. now.' No change was made during the first months of  
 1603. the new reign in the position of the Catholics. The fines and rents which were due at Easter were exacted. James had plenty of time before him to consider the course which he was to adopt, as no payments for fines incurred during his own reign would be due till after Michaelmas. Watson, however, could not wait. He was afraid lest the gentlemen who had supported the King at his instigation, should accuse him of deceiving them. He would become the laughing-stock of Jesuits, for believing in the lying promises of a Protestant King. His first thought was to gain favour with the Government by betraying his rivals. But he knew nothing of importance. It was unlikely that Cecil would set a very high price upon the information that Dr. Worthington was preaching at Douai in defence of the Infanta's title, or that the Jesuits were buying up horses in different parts of England. What little he did know he determined to lay before the Council. He wrote to Ashfield, a man who had formerly acted as James's agent in London, stating that he had information to give; Ashfield took no notice of the letter. Watson was possessed of one idea; he must do something, it mattered not what, by which he might outshine the hated Jesuits. Shortly after he had formed this determination he fell in with another priest, named Clarke. They discussed their grievances together with Sir Griffin Markham, a Catholic gentleman, who was, for private reasons, discontented with the Government, and with George Brooke, a brother of Lord Cobham, who, although he was a Protestant, does not seem to have shown any repugnance to the company in which he found himself.

Markham  
 advises the  
 seizure of  
 the King.

While they were talking these matters over, Markham made the unlucky suggestion that the best way to obtain redress would be to follow the example which had so often been set by the Scottish nation. The Scots, as was well known, were accustomed, whenever they were unable to obtain what they wished for, to take possession of their King, and to keep him in custody till he consented to give way. It was immediately resolved to adopt this preposterous scheme. But before such a plan

could be carried into execution it was necessary to devise some means of rendering it palatable to those whom they sought to enlist in their cause. They knew that all Catholics who would be willing to take arms against the King were already engaged by the Jesuits, and that those who were likely to be influenced by themselves were the last men in England to wish to take part in rebellion. To obviate this difficulty it was gravely proposed that a number of persons should be collected together under pretence of presenting a petition for toleration to the King; and it was hoped that, when the time came for action, the petitioners would be ready to do as they were bid by the leaders of the movement. All who signed the petition were to swear that they would endeavour by all 'lawful means to restore the Catholic faith again in' the 'country, to conserve the life of' their 'Sovereign in safety, and to preserve the laws of' the 'land from all enemies.' They were to be bound to divulge nothing without the consent of twelve of the principal promoters of the petition. Watson afterwards acknowledged that this clause was a mere trick to bind them to complete secrecy. As the number of the chief promoters was less than twelve, such a consent could never be obtained.

With these views, Watson and his confederates dispersed themselves over the country. They expected to be able to collect a large body of men in London on the 25th of June. These men would, as they hoped, be ready to follow their lead in everything. In order to bring together the requisite numbers, Watson was by no means sparing of falsehoods. The timid were encouraged by hearing of the thousands who were engaged in the affair, or of the noblemen who had already given in their adhesion. All, or almost all, were left under the impression that they were required to join only in the peaceful presentation of a petition. Some were inveigled by a tale of a design to seize the King's person, which Lord Grey of Wilton and the Puritans were said to have in hand. Watson suggested that if the Catholic petitioners should happen to be on the spot in time to rescue the King from these traitors, they

CH. II.

1603.

Plans of  
the con-  
spirators.

## CH. II.

1803.

Lord Grey  
of Wilton  
listens to  
them.

would merit his lasting favour. Soon afterwards, however, Grey himself, Puritan as he was, was induced to listen to the propositions of Brooke and Markham, and professed himself ready to join in presenting a petition for general toleration. He afterwards stated that they had informed him of their further designs, but that, upon his expressing his abhorrence, they had engaged to desist from them.\*

They de-  
termine to  
surprise  
the King.

In the early part of June, Watson, who had now returned to London, proceeded to mature his plans with the help of Markham, and of a young man named Copley, who had lately been admitted to his confidence. As the time for executing the scheme approached, Brooke seems to have drawn off.† The plan of the confederates, indeed, was wild enough to deter any sober man from joining it. They intended to seize the King at Greenwich on the 24th.‡ As soon as this had been effected, they were to put on the coats of the King's guards and to carry him to the Tower, as though he were going there voluntarily. When they arrived at the gate they were to tell the Lieutenant that the King was flying for refuge from traitors. They took it for granted that James would be too terrified to say what the real state of the case was, and they do not seem to have imagined that the mistake could be detected in any other way. Once within the Tower, the whole kingdom would be at their feet. They would compel the King to put into their hands the forts of Berwick, Plymouth, and Portsmouth, the castles of Dover and Arundel, and any other places which they might think fit to ask for. He was to give hostages for the free use of their religion, and to consent that Catholics should have equal place, office, and estimation with Protestants in council, at court, and in the country, and that the penal laws should at once be abrogated.

Watson, intoxicated with the success which his fancy pictured to him, began to talk wildly about 'displacing

\* Articles for Grey's Defence, Nov. (15<sup>th</sup>), *S. P. Dom.* iv. 81.

† Copley's Answer, Aug. 1, Tierney's *Dodd.* App. 7. note 2.

‡ Copley's Declaration, July 15, *S. P. Dom.* ii. 54, Tierney's *Dodd.* App. 5. note 1.

Privy Councillors, cutting off of heads, and getting the broad seal into his hands.'\* He had already distributed the chief offices of state:† Copley was to be Secretary; Markham to be Earl Marshal; he himself was to be Lord Keeper. Even Copley was unable to swallow this, and suggested that, at least under present circumstances, it would cause discontent if a priest were again seen presiding in Chancery, though he hoped that the times would soon return when such things might again be possible. Watson refused to listen to such an objection.

If, however, contrary to expectation, the King declined to follow their directions, he was to be treated with consideration, but to be kept a close prisoner till he granted their demands.‡ Many noblemen would be confined with him, and from time to time 'some buzzes of fear' might 'be put into their heads,' in order that they might, in their turn, terrify the King. Watson proposed that, if James still held out, he should be deposed. Copley refused to assent to such a measure, and this point seems never to have been settled amongst them. Whilst this question was under discussion, it occurred to Copley that it would be well to make use of the time during which the King would be in the Tower to attempt his conversion. No doubt he would readily catch at an opportunity of displaying his theological knowledge in a public disputation. If, as was more than probable, he still declared himself unconvinced, his mind might be influenced by a trial of the respective powers of exorcism possessed by a Catholic priest and a Protestant minister, which was sure to end in the triumph of the former. Watson objected that James would certainly say that the person exorcised had only been labouring under a fictitious malady; he might also charge the successful exorcist with witchcraft, or even refuse to be present at all at such a trial. Copley answered that in that case they might fall back upon the old method of deciding quarrels, by trial by battle. Watson doubted whether it would

CH. II.  
1603.

Copley  
hopes to  
convert the  
King.

\* Copley's Confession, July 14, Tierney's *Dodd*. App. 4.

† Watson's Confession, Aug. 10, Tierney's *Dodd*. App. 45.

‡ Copley's Answer, Aug. 1, Tierney's *Dodd*. App. 7. note 2.

CH. II.  
1603.

be possible to find a champion. Upon this, Copley offered himself to undertake the combat, 'provided that it might be without scandal to the Catholic Church, upon the canon of the Council of Trent to the contrary of all duellums; and I choose the weapons, not doubting but my wife who by the sacrament of matrimony is individually interested in my person, would (for being a Catholic, and the cause so much God's) quit at my request such her interest for a time, and also much less doubting but to find amongst the host of heaven that blessed Queen, his Majesty's mother, at my elbow in that hour!'

Change of  
plans.

One evening, Markham came in with the news that the King intended to leave Greenwich on the 24th. They would therefore be compelled to alter their plans. He was to sleep at Hanworth on his way to Windsor. Markham said that a body of men might easily seize him there, if they took 'every man his pistol, or case of pistols.' Copley asked where either the men or the pistols were to be found. Markham was struck dumb by the inquiry, muttered something about another plan, and left the room.

June 24.  
The plot  
fails.

On the 24th, Watson's lodgings were crowded with Catholics who had come up from the country to join in presenting the petition. But their numbers were far too small to carry out the design which the heads of the conspiracy really had in view, and the day passed over without a finger being stirred against the King. The next day Markham brought them the unwelcome news that Grey had refused to have any further communication with them. Many hours had not passed before they heard rumours that the Government was aware of their plot. The whole party fled for their lives, to be taken one by one in the course of the following weeks. So utterly futile did the whole matter appear even to those who were engaged in it, that Copley and Markham decided upon putting themselves at the disposal of the Jesuits, thinking that they alone had heads clear enough to conceive any effectual scheme for the liberation of the oppressed Catholics.

Cobham's  
plot.

By means of the examinations of the prisoners, the

Government came upon the traces of another conspiracy, in which both Cobham and Raleigh were apparently implicated. As soon as Cecil knew that Brooke was involved in Watson's plot, he naturally suspected that his brother was acquainted with it also. In order to obtain information against Cobham, Raleigh was summoned before the Council at Windsor. There is no reason to suppose that Cobham had more than a general knowledge of Watson's doings, and of this Raleigh was unable to speak. Shortly after this examination, however, Raleigh wrote to Cecil, informing him that he believed that Cobham had dealings with Aremberg, the ambassador who had lately come over from the Archduke, and that he carried on his communications by means of an Antwerp merchant, named Renzi, who was residing in London. In consequence either of this letter or of Brooke's confession, Cobham was arrested. On the 17th of July,\* Raleigh himself became suspected and was committed to the Tower.

CH. II.  
1603.

Cobham  
and  
Raleigh  
arrested.

The real truth of the story, which came out by degrees, will, in all probability, never be completely known. It would be labour in vain to build upon Cobham's evidence. He had no sooner stated a fact than he denied it. The only point which he succeeded in establishing was the undoubted fact that he was himself a most impudent liar. On the other hand, it is impossible to place implicit confidence in Raleigh's story, for though his veracity is unimpeachable by the evidence of such a man as Cobham, it cannot be denied that he made statements which he must have known at the time to be untrue. Whatever may be the truth on this difficult subject, there is no reason to doubt that Cecil at least acted in perfect good faith.† There was enough evidence to make Raleigh's innocence doubtful, and under such circumstances, according to the ideas of those times, the right course to take was to send the accused before a jury. Cecil's whole conduct during this affair

\* Extract from the journal of Cecil's secretary, *Add. MS.* 6177.

† Beaumont's opinion that he acted through passion is often quoted against him, but the French ambassador had had too many diplomatic conflicts with Cecil to judge him fairly.

CH. II.  
1603.

Evidence  
against  
them.

was that of a man who looked upon Raleigh, indeed, with no friendly eye, and who believed that he was probably guilty, but who was desirous that he should have every chance of proving his innocence.\*

The evidence upon which the Privy Council acted was obtained from various sources. It appeared that there was a general impression among the participators in Watson's plot, which they had derived from Brooke's information, that both Cobham and Raleigh were engaged in intrigues for the purpose of dethroning the King, apparently with the object of placing Arabella Stuart upon the throne. It was also said that Cobham had talked of killing the 'King and his cubs.' This latter statement was afterwards denied by Brooke on the scaffold. He had, however, undoubtedly mentioned it to Watson. The discrepancy may either be explained by supposing that he did so with the view of driving Watson more deeply into the plot, or, as is more likely, that he denied the story on the scaffold,

\* Mr. Tytler, in his *Life of Raleigh* (Appendix F.) endeavoured to prove that the whole conspiracy was a trick got up by Cecil. He first quoted the long letter of Lord Henry Howard, printed in Raleigh's Works (viii. 756), as evidence that about 1602, Howard wrote to Cecil a letter containing 'an outline of the plan afterwards put in execution, for the destruction of Cobham and Raleigh, by entrapping them in a charge of treason.' Mr. Tytler acknowledged that it was not certain that it was written to Cecil at all. But even supposing that it was, which is perhaps the most probable explanation, it is unfair to infer that Cecil partook in Howard's methods of attacking the common rivals of the two men. It is still more to the purpose to show that the letter in question contains no scheme such as was discovered in it by Mr. Tytler. It is plain, upon reading the complete passages from which he has made extracts, that Howard did not propose to entrap Raleigh and Cobham in a charge of treason, but to lead them to take part in difficult business, where they would be sure to make mistakes, which might afford an opportunity of pointing out their defects to the Queen. This is miserable enough, but it is not so bad as the other recommendation would have been, nor is there any warrant for supposing that even this met with Cecil's approbation.

Mr. Tytler's second proof was founded on a letter of Brooke's, written on the 18th of November, 1603, in which he says the following words: 'But above all give me leave to conjure your Lordship to deal directly with me, what I am to expect after so many promises received, and so much conformity and accepted service performed on my part to you.' From this he inferred that Cecil had used Brooke to act as a spy, and had abandoned him. Is it likely that if this had been the case Brooke would not have used stronger expressions, or that Cecil would have dared to send him to the block, knowing that he had it in his power to expose the infamy of such conduct? Brooke may very well have rendered services in past days to Cecil and received promises of favour in return.



in hopes of benefiting his brother. Whatever this conspiracy may have been, the priests knew nothing of its particulars. Brooke, however, distinctly stated that his brother had, before Aremburg's arrival, entered into communication with him, and had offered to help in procuring the peace which his master had so much at heart, if he would place at his disposal a sum of five or six hundred thousand crowns, which he would employ in gaining the services of different discontented persons.\* A portion of this money was certainly offered to Raleigh, though, according to his own account, which there is no reason to doubt, he immediately refused it.† Aremburg promised to send the money to Cobham, and requested to know how it was to be transmitted, and in what manner it was to be distributed.

On Aremburg's arrival, Cobham sought him out. Whether his designs had been already formed, or whether they grew in his mind after conversation with the ambassador, is uncertain. At all events, he seems at this time to have entertained the idea of assisting Arabella to the crown, and of course also of seeing Cecil and the Howards beneath his feet. He commissioned his brother to engage her to write to the Infanta, the Duke of Savoy and the King of Spain, in hopes of inducing them to support her title.‡

In spite of Brooke's refusal, he continued to negotiate with Aremburg, either with a view of inducing him to countenance this scheme, or in hopes of obtaining money which might be employed to distribute amongst persons who would use their influence in procuring the peace of which the King of Spain was so desirous. He even offered to undertake a mission to Spain in order to induce the King to listen to his proposals.

As these projects were gradually disclosed, the suspicions against Raleigh became stronger in the minds of the members of the Government. It was known that he had too good reasons to be discontented. He had been persuaded or compelled to resign his Wardenship

CH. II.

1603.

Cobham obtains the promise of money from Aremburg.

He declares for Arabella Stuart's right to the throne.

\* Brooke's Confession, July 19, *S. P. Dom.* ii. 64.

† Raleigh's Examination, Aug. 13, *Jardine's Crim. Trials*, i. 425.

‡ Brooke's Confession, July 19, *S. P. Dom.* ii. 64.

## CH. II.

1603.

Raleigh  
suspected.

of the Stannaries, and his patent of wine licenses\* had been suspended, and might possibly be cancelled as a monopoly. Durham House, which he had held for twenty years, had been claimed by the Bishop of Durham and the lawyers who were consulted having given an opinion in the Bishop's favour, Raleigh had been ordered with unseemly haste to leave the house.† Altogether, he had lost a considerable part of his income, and such a loss was certainly not likely to put a man in good humour with the Government which had treated him so harshly.‡ At the same time, it was well known that he was Cobham's greatest if not his only friend, and that they had for some years been engaged together in political schemes. Was it probable, it might be argued, that a man like Cobham, who had informed his brother of part, at least, of his design, should have kept his constant companion in ignorance? This reasoning had induced Cecil to send for Raleigh at Windsor. It must have received additional weight as soon as the Government heard that, after Raleigh had left them, he wrote a letter to Cobham, assuring him that he had 'cleared him of all,' and accompanied it with a message that one witness (by which he probably meant Brooke) could not condemn him.§ It was undoubtedly suspicious. It was just such a message as would have been sent by one accomplice to another, in order to procure his silence. Cobham too, when the letter was shown him which Raleigh had written denouncing his intercourse with Aremberg, broke out into a passion, and declared that all that he had done had been done at Raleigh's instigation. His evidence, however, was invalidated by the fact that he afterwards retracted it on his way from his examination, it was said, as soon as he reached the stair foot.

\* The wine licenses were finally declared to be no monopoly, but Raleigh having lost them by his attainder, they were granted to the Lord Admiral, the Earl of Nottingham.

† Egerton Papers, Camd. Soc. 376.

‡ See Appendix ii. to vol. ii, Nos. 3 and 4.

§ Raleigh on his trial denied sending this message. But Keymis, who was the messenger, declared that he had carried it, thus corroborating Cobham's evidence. A man who 'endeavoured still to transfer all from his master to himself,' was not likely to have invented this.—Waad to Cecil, Sept. 2, 1603, *S. P. Dom.* iii. 52.

Raleigh's health suffered extremely during his imprisonment; in all probability from mental rather than from physical causes. In less than a fortnight after his arrest, his spirits had become so depressed that he allowed himself to make an ineffectual attempt at self-destruction.

CH. II.

1608.

His attempted suicide.

The letter in which he took, as he supposed, a farewell of his wife, is one of the most touching compositions in the English language. He could not bear, he said, to leave a dishonoured name to her and to his son, and he had determined not to live, in order to spare them from the shame. He begged her not to remain a widow; let her marry, not to please herself, but in order to obtain protection for her child. For himself he was 'left of all men,' though he had 'done good to many.' All his good actions were forgotten, all his errors were brought up against him with the very worst interpretation. All his 'services, hazards, and expenses for his country,' his 'plantings, discoveries, fights, counsels, and whatsoever else' he had done, were covered over by the malice of his enemies. He was now called 'traitor by the word of an unworthy man,' who had 'proclaimed him' to be a partaker of his vain imaginations, notwithstanding the whole course of his life had 'approved the contrary.' 'Woe, woe, woe,' he cries, 'be unto him by whose falsehood we are lost!' He hath separated us asunder; he hath slain my honour, my fortune; he hath robbed thee of thy husband, thy child of his father, and me of you both. O God! thou dost know my wrongs; know then thou, my wife and child; know then thou, my Lord and King, that I ever thought them too honest to betray, and too good to conspire against. But, my wife, forgive thou all, as I do; live humble, for thou hast but a time also. God forgive my Lord Harry,\* for he was my heavy enemy. And for my Lord Cecil, I thought he would never forsake me in extremity; I would not have done it him, God knows.' He then goes on to assure his wife that he does not die in despair of God's mercies. God had not left him, nor Satan tempted him. He

\* Certainly, I think, Howard. Mr. Brewer thinks Cobham.

CH. II.  
1603.

knew it was forbidden to men to destroy themselves, but he trusted that that had reference only to those who made away with themselves in despair.

‘The mercy of God,’ he continues, ‘is immeasurable, the cogitations of men comprehend it not. In the Lord I have ever trusted, and I know that my Redeemer liveth; far is it from me to be tempted with Satan; I am only tempted with sorrow, whose sharp teeth devour my heart. O God, thou art goodness itself! thou canst not be but good to me. O God, thou art mercy itself! thou canst not be but merciful to me.’ He then speaks of the property he has to leave and of his debts. But his mind cannot dwell on such matters. ‘Oh intolerable infamy!’ he again cries out, ‘O God, I cannot resist these thoughts; I cannot live to think how I am derided, to think of the expectation of my enemies, the scorn I shall receive, the cruel words of the lawyers, the infamous taunts and despites, to be made a wonder and a spectacle! O death! hasten thee unto me, that thou mayest destroy the memory of these and lay me up in dark forgetfulness. The Lord knows my sorrow to part from thee and my poor child; but part I must, by enemies and injuries, part with shame and triumph of my detractors; and therefore be contented with this work of God, and forget me in all things but thine own honour, and the love of mine. I bless my poor child, and let him know his father was no traitor. Be bold of my innocence, for God, to whom I offer life and soul, knows it. And whosoever thou choose again after me, let him be but thy politic husband; but let my son be thy beloved, for he is part of me, and I live in him, and the difference is but in the number, and not in the kind. And the Lord for ever keep thee and them, and give thee comfort in both worlds!’ \*

Fortunately for himself, Raleigh’s attempt to fly from the evils before him failed. He was to die after long years of sorrow nobly borne; but he was to die no coward’s death.

\* Raleigh to his wife. Printed by Mr. Brewer in his Appendix to Goodman’s *Court of King James I.*, ii. 93. Who is the daughter mentioned in this letter? Apparently a natural child. Does anyone know what became of her?

During the remainder of his imprisonment he was several times examined, but his answers have not been preserved, with the exception of one or two fragments, in one of which he acknowledged that Cobham had offered him 10,000 crowns with a view to engage his services in furthering the peace, but added that he had passed the proposal by with a joke, thinking that it had not been seriously made.

CH. II.  
1603.

On the 12th of November, he was brought out of the Tower to be conducted to Winchester, where the trial was to take place, in order that the persons who attended the courts might not be exposed to the plague which was raging in London.

Taken to  
Winches-  
ter.

He passed through the streets amidst the execrations of the London mob. So great was their fury that Waad, the Lieutenant of the Tower, who had charge of him, hardly expected that he would escape out of the city alive. On the 17th he was placed at the bar, upon a charge of high treason, before Commissioners specially appointed, amongst whom Cecil and Chief Justice Popham took the most prominent parts.\*

The prosecution was conducted by the Attorney-General, Sir Edward Coke, with a harsh rudeness which was remarkable even in that age, and which in the course of the proceedings called down upon him, much to his own astonishment, the remonstrances of Cecil.

The trial.

A century later Raleigh might well have smiled at the evidence which was brought against him. As it was, he could have had but little hope under what, in a letter which he had written to some of the Lords of the Council,† he well termed 'the cruelty of the law of England.' In our own days every one who takes part in a criminal trial is thoroughly impressed with the truth of the maxim, that every man is to be considered innocent until he is proved to be guilty. Even the counsel for the

The  
cruelty of  
the law of  
England.

\* A story occurs in the *Observations on Sanderson's History*, which had been frequently quoted, to the effect that the jury, not being sufficiently subservient, were changed overnight. To this Sanderson replied in an *Answer to a Scurrilous Pamphlet*, p. 8, that 'it is a scandal upon the proceedings to say that the intended jury was changed overnight, for these were of Middlesex, and ordered long before to attend at Winchester.'

† Letter to Nottingham and other Lords in Cayley's *Life of Raleigh*, ii. 11.

CH. II.

1603.

prosecution frequently seeks to gain a reputation for fairness by reminding the jury of the existence of such a maxim. The judge repeats it, if necessary, when he sums up the evidence. The able counsel, whom the prisoner is at liberty to select at his own discretion, takes good care that it is not forgotten. Every man in the jury-box has been brought up in a political atmosphere where this maxim is counted as an axiom, and he knows that, if he should forget his duty, a free press is ready to trumpet his delinquencies into every corner of the kingdom.

How different was the course of a criminal trial in the first years of the seventeenth century! It was not that either the judges or the juries of that age were inclined to barter their consciences for bribes, or servilely to commit injustice with their eyes open from a fear of consequences to themselves. But they had been trained under a system which completely ignored the principle with which we are so familiar. Tacitly, at least, the prisoner at the bar was held to be guilty until he could prove his innocence. No counsel was allowed to speak on his behalf, and unless his unpractised mind could, at a moment's notice, refute charges which had been skilfully prepared at leisure, the unavoidable verdict was sure to be given against him. Such a course of proceeding was bad enough in ordinary trials; but when political questions were involved the case was far worse. In our own times the difficulty is to procure a verdict of guilty as long as there is the slightest flaw in the evidence against a prisoner. When Raleigh appeared at the bar, the difficulty was to procure an acquittal unless the defence amounted to positive proof of innocence.

Change in  
the view  
taken of  
treason.

The causes which led to this state of things are not difficult to comprehend. We live in days when, happily, it has become almost impossible to conceive of a treason which should really shake the country. Consequently, a prisoner accused of this crime is in our eyes, at the most, a misguided person who has been guilty of exciting a riot of unusual proportions. We cannot work our minds up to be afraid of him, and fear, far more than ignorance, is the parent of cruelty. The experience of

the sixteenth century had told the other way. For more than a hundred years the Crown had been the sheet-anchor of the constitution. Treason, consequently, was not regarded simply as an act directed against the Government. It was rather an act of consummate wickedness which aimed at the ruin of the nation. A man who was even suspected of a crime the object of which was to bring the armies of Spain upon the free soil of England could never meet with sympathy, and could hardly hope for the barest justice. The feelings of men were the more irresistible when the most learned judge upon the bench knew little more of the laws of evidence and the principles of jurisprudence than the meanest peasant in the land.

CH. II.  
1808.

As might be expected, the forms of procedure to which the prevalent feelings gave rise only served to aggravate the evil. The examination of the prisoners was conducted in private. Such a system was admirably adapted for procuring the conviction of a guilty person who was not likely to persist in denying his crime, whilst his confederates might be telling their own story against him; each in his own way. But it by no means afforded equal chances of escape to the innocent who had no opportunity of meeting his accuser face to face, or of subjecting him to a cross-examination, and who, if he were accused of a State crime, would find in the examiners men who were by their very position incapable of taking an impartial view of the affair. In point of fact, these preliminary investigations formed the real trial. If the accused could satisfy the Privy Council of his innocence, he would at once be set at liberty. If he failed in this, he would be brought before a court from which there was scarcely a hope of escape. Extracts from his own depositions and from those of others would be read before him, supported by the arguments of the first lawyers of the day, who did not disdain to bring against him the basest insinuations, which he had at the moment no means of rebutting. The evil was still more increased by the want of any real responsibility in any of the parties concerned. When the previous depositions formed almost, if not entirely, the whole of the evidence,

System  
of criminal  
procedure.

CH. II.  
1603. a jury would be likely to attach considerable weight to the mere fact that the prisoner had been committed for trial. They would naturally feel a diffidence in setting their untried judgments against the conclusions which had been formed by men who were accustomed to conduct investigations of this kind, and who might be supposed, even if the evidence appeared to be weak, to have kept back proofs which for the good of the public service it was unadvisable to publish. On the other hand, the Privy Councillors would view the matter in a very different light. They would see in their inquiries nothing more than a preliminary investigation, and would throw upon the jury the responsibility which, in theory, they were bound to feel.\* Under these circumstances, trial by jury ceased to be a safeguard against injustice. In a conjuncture when the nation and its rulers are equally hurried away by passion, or have become equally regardless of the rights of individuals, the system loses its efficacy for good.

The law of  
treason.

With such prospects before him, Raleigh took his place at the bar.† If the feeling of the time with respect to persons charged with political offences was likely to lead to injustice, the law of high treason, as it had been handed down from older times, was such as to give full scope for that injustice. In the case of ordinary crimes, it was necessary to prove that the prisoner had actually taken part in the criminal action of which he was accused. In cases of treason it was sufficient if any one person had committed an overt act, all others to whom the treason had been confided, and who had consented to the perpetration of the crime, although they might have taken no part whatever in any treasonable action, were held to be as much guilty as the man would have been who actually led an army against the King.

From this state of the law arose the great difficulty which must have been felt by every prisoner who had

\* 'Always,' wrote Cecil of Raleigh, 'he shall be left to the law, which is the right all men are born to.'—Cecil to Winwood, Oct. 3, 1603, *Winw.* ii. 8.

† The account here given is based upon the report as given in *Jardine's Crim. Trials*.



CH. II.  
1603.

to defend himself when charged with treason, in which he had not himself taken an active share. If he had ever listened to the words of a traitor, it would not be enough for him to prove that he had not done anything which was treasonable. He could only hope for an acquittal, if he could show that the state of his mind at the time when he heard the treasonable proposal was the opposite of that which would certainly be ascribed to him by everyone who took part in the trial. And even if by some extraordinary chance he was able to show that he had only concealed the treason without consenting to it, he was still liable to the harsh penalties which the law inflicted upon misprision of treason.

After some preliminary proceedings, the charges against the prisoner were brought forward by Coke, with his usual violence, and with his no less usual carelessness as to the value of the evidence upon which he based his assertions. He charged Raleigh with entering upon a treason which was closely connected with that of the priests, although he was unable to point out what that connection was. He had not gone far before he lost his temper. Raleigh having calmly asserted his innocence, and having offered to confess the whole of the indictment if a single charge could be proved out of the many that had been brought against him, he dared, in the presence of the man whose life-long antagonism to Spain was notorious to every Englishman, to accuse him with being a monster with an English face, but a Spanish heart; and with having plotted with Cobham to bring about the substitution of Arabella for the King by the help of a Spanish invasion. One night, he said, shortly after Aremberg's arrival, Raleigh was supping with Cobham; and after supper Cobham went with Renzi to visit the Ambassador. It was then arranged that Cobham should go into Spain, and that he was to return by way of Jersey, where he was to consult with Raleigh as to the best means of making use of the money which he hoped to procure from the King of Spain. The Attorney-General proceeded to argue in favour of the probability of this story, from Raleigh's known intimacy with Cobham, from the letter which he had written to say that he

Coke  
opens the  
trial.

CH. II.  
1603.

had cleared him in all of which he had been accused, as well as from the message which he had sent to remind him that one witness could not condemn him. This message would be sufficient to account for Cobham's retractation of his accusation. Coke then proceeded to speak of an attempt which Cobham had made to ante-date a letter in order to disprove the charge which had been brought against him of purposing to go abroad with treasonable intentions, and asserted, without a shadow of proof, that 'this contrivance came out of Raleigh's devilish and machiavellian policy.' Upon Raleigh's quietly denying the inferences, Coke broke out again: 'All that he did,' he said, 'was by thy instigation, thou viper; for I thou thee, thou traitor! I will prove thee the rankest traitor in all England.' Raleigh again protested his innocence, and after the Chief Justice had interposed to restore the order which had been broken by the Attorney-General, Coke proceeded to adduce his evidence. The first document read was Cobham's declaration of the 20th of July, in which, after having been shown Raleigh's letter to Cecil in which he had suggested that Cobham's dealings with Aremberg should be looked into, he had declared that he 'had never entered into these courses but by Raleigh's instigation,' and had added that Raleigh had spoken to him of plots and invasions, though this charge was somewhat invalidated by Cobham's refusal to give any particular account of the plots of which he had spoken.

To this evidence, such as it was, Raleigh immediately replied. This, he said, addressing the jury, was absolutely all the evidence that could be brought against him. He protested that he knew nothing either of the priests' plot, or of any design to set Arabella upon the throne. If he suspected that there was anything passing between Aremberg and Cobham, it was because he knew that they had had confidential communication with one another in former times, and because one day he saw him go towards Renzi's lodging. He then appealed to the jury to consider how unlikely it was that he should plot with such a man as Cobham. 'I was not so bare of sense,' he said, 'but I saw that if ever the State was

strong and able to defend itself, it was now. The kingdom of Scotland united, whence we were wont to fear all our troubles; Ireland quieted, where our forces were wont to be divided; Denmark assured, whom before we were wont to have in jealousy; the Low Countries, our nearest neighbours, at peace with us; and instead of a Lady whom time had surprised we had now an active King, a lawful successor to the crown, who was able to attend to his own business. I was not such a madman as to make myself in this time a Robin Hood, a Wat Tyler, or a Jack Cade. I knew also the state of Spain well; his weakness and poorness and humbleness at this time. I knew that he was discouraged and dishonoured. I knew that six times we had repulsed his forces, thrice in Ireland, thrice at sea, and once at Cadiz on his own coast. Thrice had I served against him myself at sea, wherein for my country's sake I had expended of my own properties £4,000. I knew that where before-time he was wont to have forty great sails at the least in his ports, now he hath not past six or seven; and for sending to his Indies he was driven to hire strange vessels—a thing contrary to the institutions of his proud ancestors, who straitly forbad, in case of any necessity, that the Kings of Spain should make their case known to strangers. I knew that of five and twenty millions he had from his Indies, he had scarce any left; nay, I knew his poorness at this time to be such that the Jesuits, his imps, were fain to beg at the church doors; his pride so abated, as, notwithstanding his former high terms, he was glad to congratulate the King, my master, on his accession, and now cometh creeping unto him for peace.' Raleigh concluded by asserting that it was improbable either that the King of Spain should be ready to trust large sums of money on Cobham's bare word, or that a man of Cobham's wealth should risk it by entering into treason. But, however that might be, he protested that he was clear of all knowledge of any conspiracy against the King.

After some further argument on the value of Cobham's evidence, the prisoner appealed to the Court against the course which was adopted by the prosecution, and

Question  
of the  
necessity  
of produc-  
ing two  
witnesses.

CH. II.

1603.

demanding that at least two witnesses should be produced in open court. It was all in vain. The Chief Justice laid down the law as it was then universally understood in Westminster Hall.\* Two statutes† of Edward VI. had, indeed, expressly declared that no man could be convicted of treason except by the evidence of two witnesses, who, if living at the time of the arraignment, were to be produced in court. Raleigh urged that a later statute of Philip and Mary‡ held the same doctrine. Popham answered that he had omitted the important words which limited its operation to certain treasons specially mentioned in the Act. By another section of the same statute it was 'enacted that all trials hereafter to be . . . awarded . . . for any treason shall be had and used only according to the due order of the Common Laws of this realm, and not otherwise.' It is highly improbable that the legislature intended that this section should be interpreted so as to interfere with the wholesome practice of requiring two witnesses in cases of treason. At a later period a different interpretation was affixed to it by the common consent of all lawyers, who have now, for nearly two centuries, unanimously held that the statute of Edward VI. was not repealed by the subsequent Act. But in the early part of the seventeenth century all lawyers, with equal unanimity, held the contrary opinion. In 1556 the Judges had met to consult on the meaning of the Act, and had decided that, in consequence of the statute which had then been recently passed, they were bound to fall back upon the old custom, by which they were to be content with one accuser, who need not be produced in court. This doctrine had been repeatedly put in practice, and no remonstrance had proceeded from any quarter, excepting from the unfortunate men who had suffered from its injustice.

Coke produces his proofs.

This objection having been thus overruled, Coke proceeded to bring forward what further evidence he

\* See Mr. Jardine's remarks, *Crim. Trials*, i. 513, and Reeve's *Hist. of Eng. Law*, iv. 495-506.

† 1 Ed. VI. cap. 12, and 6 Ed. VI. cap. 11.

‡ 1 & 2 Philip and Mary, cap. 10.

had it in his power to produce. A letter of Cobham's was read, in which he acknowledged that before Aremberg's arrival he had written to him for money, and had received a promise of four or five hundred thousand crowns. As, however, this appeared to be intended only to assist the progress of the negotiations for peace, Coke was obliged to go farther in order to prove that there had ever been any overt act of treason at all. For Cobham, remembering that the evidence which he gave against Raleigh might possibly be turned against himself, had, with the single exception of the general statement, which was made in the heat of passion, that Raleigh had spoken to him of 'plots and invasions,' always asserted that his dealings with Aremberg had reference solely to the negotiations. The Attorney-General was therefore forced to content himself with bringing forward Watson's evidence, such as it was, to the effect that he had heard from Brooke that his brother and Raleigh were wholly of the Spanish faction.

The confession which Raleigh had made as to Cobham's offer was also read, and Keymis's examination was produced, in which he spoke of a private interview which had taken place between Cobham and Raleigh at the time when the former was receiving letters from Aremberg. To this Raleigh made no reply, but he stated that Cobham's offer of the ten thousand crowns had been made previously to Aremberg's arrival in England. He added that he refused to have anything to do with it. This took place, he said, as he and Cobham were at dinner. Cobham also proposed to offer money to Cecil and to Mar, to which he replied that he had better 'make no such offer to them, for, by God, they would hate him if he did offer it.' Raleigh concluded by again pressing to be allowed to be brought face to face with his accuser.

He found an unexpected support in Cecil, who, with an evident desire that Raleigh's wish might be granted, pressed the judges to declare how the law stood. They all answered that it could not be allowed. 'There must not,' said Popham, 'be such a gap opened for the destruction of the King as would be if we should grant you this. . . . You plead hard for yourself, but the laws

CH. II.

1603.

Raleigh's account of his connection with Cobham's proceedings.

Asks again to be confronted with Cobham.

CH. II.

1603.

plead as hard for the King. . . . The accuser having first confessed against himself voluntarily, and so charged another person, he may from favour or fear retract what formerly he hath said, and the jury may by that means be inveigled.'

Keymis's  
message  
denied by  
Raleigh.

After some further evidence of no great value had been produced, Keymis's deposition was read, in which he confessed that he had carried a letter and a message from Raleigh to Cobham when he was in the Tower, and that he had told him that one witness could not condemn a man. Upon hearing this deposition read, Raleigh took the unfortunate step of boldly denying that he had ever sent the message, or written the letter. Keymis was not the man to have invented the story, and this unlucky falsehood of Raleigh's must have induced those who were present to give less weight to his protestations than they would otherwise have done.

Once more Raleigh besought the court to allow the production of Cobham, and, in spite of Howard's declaration that his request could not be granted, Cecil once more supported him by asking whether the proceedings might not be adjourned till his Majesty's pleasure could be known. The judges coldly answered that it could not be done.

The evidence which still remained was most irrelevant. A pilot, named Dyer, was brought into court, who swore that when he was at Lisbon he had been told by a Portuguese that the King would never be crowned, as Don Cobham and Don Raleigh would cut his throat first.

According to our ideas the case had thoroughly broken down. Not only had there been no evidence that Raleigh had ever heard of Cobham's purpose of employing the Spanish money in support of Arabella's claim, but there had been none to show that Cobham himself had ever formed such a design. It must not, however, be supposed that on the latter point the Government were not in possession of more satisfactory evidence than they were able to produce in court. They had in their hands letters of AreMBERG in which he had distinctly promised help to Cobham, and had not objected, when it was proposed to

him, to request the Spanish Government to retard the negotiations for peace, and to reinforce their fleet.\*

CH. II.  
1603.

Raleigh then addressed the jury, begging them not to condemn him on such evidence as that which they had just heard. Serjeant Phelipp said that the question lay between the veracity of Raleigh and Cobham. It was Raleigh's business to disprove the accusation, which he had failed to do. Raleigh replied, truly enough, that Cobham had disproved his own assertions by disavowing them.

Coke was proceeding to sum up the evidence when Raleigh interrupted him, and asked that, as he was pleading for his life, he might be allowed to have the last word. The Attorney-General was treating this as mere insolence, when he was checked by Cecil. Coke, unused to be compelled to respect the feelings of a prisoner, 'sat down in a chafe,' and was only induced to proceed by the entreaties of the Commissioners.

Raleigh demands the last word.

After going over the depositions which had been read, he produced a letter which had been written only the day before by Cobham to the Commissioners. 'I have thought fit,' the wretched man had written, 'in duty to my Sovereign, and in discharge of my conscience, to set this down for your Lordships, wherein I protest upon my soul to write nothing but what is true, for I am not ignorant of my present condition, and now to dissemble with God is no time. Sir Walter Raleigh, four nights

Cobham's letter to the Commissioners.

\* The following extract from the despatch of the French Ambassador seems to prove the reality of Cobham's intrigue for setting up Arabella:—'*Or est-il qu'en icelle,*' i.e. his deposition, '*ledit Cobham a reconnu d'avoir ouvert son dessein au Comte d'Aremberg qui estoit de persuader Madame Arbelles ainsi qu'il se publie et appert par la lettre qu'il lui escrivit laquelle ladite dame mit deors entre les mains du Roi, qu'il a demandé audit Comte la somme de 600,000 escus pour en donner une partie aux malcontents de ce Royaume a fin de les esmouvoir a se rebeller et en envoyer un autre en Ecosse et Irlande, qu'il s'est offert d'escire lui-même au Roi d'Espagne a fin qu'il retardast la negotiation de la paix et renforcast son armée de mer attendant que selon le conseil qu'il avoit pris il pût feignant d'aller a Spa conferer avec l'archiduc, et delà passer en Espagne pour donner plus de seureté de sa foi et de son credit, que sur toutes ces choses ledit Comte l'avoit non seulement escouté mais conforté, discourant, et s'enquérant avec lui des moyens de les faire reussir; qu'il lui avoit comme donné parole de 600,000 escus, et ce par deux lettres lesquelles je scai être [dans ?] les mains du Roi, et que pour le retardement de la negotiation de la paix, et de l'armée de mer, il en donneroit avis au plustot en Espagne.*'—Beaumont to the King of France, <sup>Nov. 28,</sup> 1603. <sup>1603. a.</sup> *King's MS.* 124, fol. 577 b.

CH. II.  
1603.

before my coming from the Tower, caused a letter inclosed in an apple to be thrown in at my chamber window, desiring me to set down under my hand and send him an acknowledgment that I had wronged him, and renouncing what I had formerly accused him of. His first letter I made no answer to. The next day he wrote me another, praying me for God's sake, if I pitied him, his wife and children, that I would answer him in the points he set down, informing me that the judges had met at Mr. Attorney's house, and putting me in hope that the proceedings against me would be stayed. Upon this I wrote him a letter as he desired. I since have thought how he went about only to clear himself by betraying me. Whereupon I have resolved to set down the truth, and under my hand to retract what he cunningly got from me, craving humble pardon of His Majesty and your Lordships for my double-dealing.

'At the first coming of Count Aremberg, Raleigh persuaded me to deal with him, to get him a pension of £1,500 from Spain for intelligence, and he would always tell and advertise what was intended by England against Spain, the Low Countries, or the Indies. And coming from Greenwich one night he told me what was agreed between the King and the Low Countrymen, that I should impart it to Count Aremberg. But for this motion of £1,500 for intelligence I never dealt with Count Aremberg. Now, as by this may appear to your Lordships, he hath been the original cause of my ruin, for but by his instigation I had never dealt with Count Aremberg. So also hath he been the only cause of my discontentment, I never coming from the court, but still he filled me with new causes of discontentment. To conclude: in his last letter he advised me that I should not be overtaken by confessing to any preacher, as the Earl of Essex did, for the King would better allow my constant denial than any accusing any other person, which would but add matter to my former offence.'

Raleigh  
produces  
another  
letter.

Never did any man appear more bewildered than Raleigh when he heard this letter read. As soon as he could recover himself, he drew another letter from his pocket. This was the one which had been written in



the Tower by Cobham in reply to the urgent request which had been conveyed to his cell by means of the apple thrown in at the window. In spite of Coke's objections it was read, at Cecil's request, to the following effect:—

CH. II.  
1603.

'Now that the arraignment draws near, not knowing which should be first, I or you, to clear my conscience, satisfy the world with truth, and free myself from the cry of blood, I protest upon my soul, and before God and His angels, I never had conference with you in any treason, nor was ever moved by you to the things I heretofore accused you of, and, for anything I know, you are as innocent and as clear from any treasons against the King as is any subject living. Therefore I wash my hands, and pronounce with Daniel,\* "*Purus sum a sanguine hujus*," and God so deal with me, and have mercy upon my soul as this is true.'

Raleigh was however brought to confess, that although it was untrue that he had moved Cobham to procure him a pension, yet he could not deny that Cobham had mentioned it to him. This confession, coming after his denial made at Windsor of having known anything of any plot between Cobham and Aremberg, and his subsequent letter in which he based his suspicions of Cobham simply upon his knowledge of the interview with Renzi, was calculated to do considerable damage to his cause. If Cobham was proved by his own words to be a liar of consummate impudence, it was also evident that Raleigh had, to say the least of it, not been telling the whole truth. The jury therefore, after a short consultation of fifteen minutes, brought in a verdict of guilty. Sentence of death was pronounced by Popham, who probably thought he was standing on a ground of moral superiority in inveighing against the atheistical and profane opinions which he, in common with the rest of the world, believed Raleigh to have entertained.

The pension.

The verdict.

If we once admit the principle, upon which the jury tacitly acted, that it was the prisoner's business to prove himself to be innocent, the whole trial resolves itself

Question of Raleigh's innocence.

\* Sic.

CH. II.

1603.

into a question of character. Difficult as it is for us to acknowledge it, it is not improbable that, with the jury, Raleigh's character for veracity stood as low as Cobham's. That this was unjust to Raleigh we know full well. We have opportunities of knowing what he really was which very few of his contemporaries enjoyed. The courtiers and statesmen with whom he mingled knew only his worst side, and their evil report was exaggerated by rumour as it spread over the land.

Probable  
explanation  
of the  
facts.

With unerring judgment posterity has reversed the verdict of the Winchester jury. That Raleigh was innocent of the foul crime of which he was accused needs no proof to those who know how deeply hatred to Spain had sunk into his heroic soul. Still, however, there is something that needs explanation. Raleigh was evidently not anxious to tell the whole truth. It is almost impossible to avoid the conclusion that he knew more of Cobham's plans than he chose to avow. That he even heard of the scheme of placing Arabella upon the throne, or of the Spanish invasion, may be doubted. Brooke's testimony of what his brother said is worthless; and Cobham, at least till after his own conviction,\* never directly charged him with it. The most that he said was that Raleigh had spoken to him of plots and invasions. On the other hand, it was acknowledged by all that he had offered Raleigh bribes to engage in forwarding the peace. The story which was told by Raleigh of the manner in which he rejected the offer has the appearance of truth. But is it certain that he was not acquainted with more than he liked to say of Cobham's further intercourse with Aremberg? Was it only on the two occasions on which money was offered that Raleigh heard anything of the secret with which the whole mind of his companion was filled? It was from Raleigh's presence that Cobham went with Renzi to Aremberg's lodgings. On another occasion Raleigh was 'below in the hall with Lord Cobham when Renzi delivered a letter from Aremberg,' and afterwards 'the Lord Cobham took Sir Walter Raleigh up into his

\* He did then. Cobham's Confession, Nov. 22, *S. P. Dom.* iv. 91.

См. II.  
1603.

chamber with him in private.' Is it to be believed that they went there in order to converse on indifferent subjects? We can well imagine that Raleigh, though he would himself take no part in the folly, would feel a kind of pleasure, in the temper in which he was, in hearing Cobham babble of his schemes. What was the Government to him that he should play the spy for them? James had deserted the great cause; let him guard himself against treason if he could. As for this absurd plan of Cobham's, it would come to nothing, and it must come to nothing without his going cap in hand to Cecil to tell tales of the only man of rank who had remained faithful to him. Raleigh cannot have been in a gentle humour on that night when he came home from Greenwich, after seeing his rival in the enjoyment of the sweets of power. 'If it is to come to this,' we can fancy his saying to Cobham on his return, 'one might as well be a pensioner of Spain at once,' or even, 'After all, an invasion of the Spaniards would not be worse than an invasion of Scots.'\* Of course this is mere guess-work, but it is a guess which would sufficiently account for all that followed. He suddenly is called before the Council, and on the spur of the moment denies all knowledge of Cobham's proceedings. Then, after he has gone away, he reflects that sooner or later what had happened must come to light, and he knows that he has had no real part in the treason. He writes the letter to Cecil, and Cobham is arrested and lodged in the Tower. Upon this he remembers what the English law is, making a man an offender for a thought, far more for a word, and instinctively turning to the one object of stopping Cobham's mouth, he sends Keymis to him to do what he can. Alas! he had forgotten that Cobham might see the letter which had been written to Cecil. Cobham does see it, bursts into a rage, and accuses Raleigh of things of which he had never dreamed. There is nothing for it now but to deny all, to state boldly that Keymis had lied as well as Cobham,

\* It will be remembered, that Mr. Kingsley has suggested a similar explanation for another difficult passage in Raleigh's history.—*Miscellanies*, i. 93.

CH. II.  
1603.

to hide as long as possible the second offer of a pension, to declare that he had never committed a venial error, lest those accursed lawyers should torture it into the foulest crime. Raleigh was indeed innocent of that of which he was charged, but he had been guilty of two faults, of which the judges took no cognizance; he had chosen a fool for his friend, and he had not seen that the time had come when he must cast him off if he would preserve his own honour.

Impres-  
sion upon  
the specta-  
tors.

If Raleigh's trial is remarkable for the distinct enunciation by the judges of the harsh principles which were then in repute amongst lawyers, it is equally worthy of memory, as giving the first signal of the re-action which from that moment steadily set in in favour of the rights of individuals against the State. Many a man, who came to gloat over the conviction of a traitor, went away prepared to sympathise with the prisoner who had defended himself so well against the brutal invectives of Coke.

Trial of  
the other  
prisoners.

Two days before this trial, Brooke, Markham, Copley, and another confederate named Brooksby, with the two priests Watson and Clarke, were convicted of high treason. Before the end of the week Cobham and Grey were also convicted before a court composed of thirty-one peers, in which the Chancellor presided as Lord Steward.\*

Execution  
of Watson,  
Clarke and  
Brooke.

Ten days later the two priests were executed, and in a week's time they were followed by Brooke, who died declaring that all that he had said was true, with the exception of the charge which he had brought against his brother of wishing that the fox and his cubs were taken away.†

Reprieve  
of the  
other pri-  
soners.

With respect to the other prisoners, the King refused to listen to any requests made to him, either by those who were desirous to save them, or by others who were anxious that they should be executed. At last, after some consideration, he determined to take a course by which he might have the benefit of hearing what their

\* Carleton to Chamberlain, Nov. 27; Cecil to Parry, Dec. 1, *Court and Times of James I.* i. 14, 17.

† Carleton to Chamberlain, Dec. 11, *Court and Times of James I.* i. 27. Cecil to Winwood, Dec. 12, *Winw.* ii. 10.

last confessions were, without putting any of them to death. Warrants were accordingly issued for the execution of Cobham, Grey, and Markham on the 10th of December. The Bishop of Chichester was appointed to attend upon Cobham, and the Bishop of Winchester upon Raleigh, in hopes of extracting a confession at least from one of them. Both adhered to their former statements. On the appointed day the three were brought out for execution one after the other, but after each had made his declaration, he was sent down from the scaffold, in pursuance of an order which arrived from the King. Even when in instant expectation of death Cobham persisted in his assertion of Raleigh's guilt.\* At last they were all told that the King had countermanded the execution, and had granted them their lives. Raleigh, whose execution had been fixed for a later day, was also informed that he was reprieved. With Grey and Cobham he was committed to the Tower. Markham, Copley, and Brooksby were ordered to quit the kingdom.† Raleigh's personal property, which had been forfeited by his attainder, was restored to him.‡ Of the manor of Sherborne, all that fell into the King's hands was the interest which Raleigh retained in it during his life, as he had executed a conveyance shortly before the death of Elizabeth, by which he assigned the estate to trustees for the benefit of his wife and child, though reserving the profits to himself during his own life. This life-interest was granted by James to two persons nominated by himself, to be held in trust for the benefit of Lady Raleigh and her son.§

A few days before the discovery of Watson's conspiracy James had finally made up his mind on the mode in which he would deal with the Recusants.\*\*

The King remits the Recusancy fines.

\* As he showed no cowardice on the scaffold, it has often been supposed that he knew he was not to die; on the other hand, the explanation I have adopted seems more characteristic of James.

† Markham took service in the Archduke's army, and at the same time acted as a spy for the English Government.

‡ Grant to Shelbury and Smith, Feb. 14, 1604. *Rymer's Fœdera*, xvi. 569.

§ Grant to Brett and Hall, July 30, 1604. *S. P. Docquet*.

\*\* He communicated his intentions to Rosny (Rosny to the King of France, June 20. *Econ. Roy.* iv. 370). Rosny kept them for Henry's private ear. How long the order for remitting the fines had been given, is uncertain.

Ск. II. He had shown, by the appointment of Lord Henry  
 1603. Howard to a seat in the Council, that he did not intend that any difference in religious opinion should be a bar to the highest posts in the State. In his own language, Lord Henry was the tame duck by which he hoped to catch many wild ones. Even for those who refused to be enticed into outward conformity something was to be done. The £20 fines were to cease at once.\* With those Recusants whose lands had been seized there was more difficulty, as the lessees had a claim upon the property. How this difficulty was overcome we do not know. We only know that nominally the land remained in the hands of the lessees, and that only a very few of them were required to pay their rents. It is not impossible that in most instances the lessees were friends of the owners, and that they would willingly restore the land to the rightful proprietors, if they were not themselves required to pay the money. Where this was not the case, the King would continue to demand the rent from the occupier of the land, as there would be no advantage to the owner in his acting otherwise.

Beaumont's advice.

The discovery of the plot alarmed the King exceedingly. He told Beaumont, the resident French Ambassador,† that he had been kind to the Catholics, and had admitted them to court, and even to his Council. In spite of the remission of the fines, they had sought his life. Beaumont told him that the conspirators were exceptions amongst a generally loyal body; and that if liberty of conscience were not allowed, he would hardly be able to put a stop to similar plots. James said that he would think the matter over. About the middle of July the principal Catholics were called before the Council, and informed that as long as they continued to behave as loyal subjects the fines would not be exacted.‡

\* The particulars of the recusancy fines can be accurately obtained from the Receipt Books of the Exchequer.

† Beaumont to the King of France, July 15<sup>th</sup> 1603, *King's MS.* 123, fol. 327b.

‡ *Petition Apologetical*. The Instructions to the Council of the North (*S. P. Dom.* ii. 64) is probably a mere formal document, in which the instructions regarding the Recusants are copied from the last document of the kind. At all events, they do not seem to have been put in force. See Hutton to Cranborne, Dec. 18, 1604, *Winw.* ii. 40. The important clauses in the instructions referred to are printed in *Notes and Queries*, 2nd ser. ix. 319.

From the disclosures made by the prisoners who had been concerned in Watson's plot, James learned that the conspiracy which had just been detected formed the smallest part of the dangers to which he was exposed. Watson himself declared that he was certain that the Jesuits had been engaged in an undertaking of the precise nature of which he was ignorant, but which was in some way or another connected with hopes of a Spanish invasion. Nor was this a mere unfounded assertion. The movements which Watson had perceived were caused by the preparations made by Catesby and his friends to receive the army of the King of Spain, if he should send a favourable answer to their petition.

CH. II.

1603.

Fear of  
Jesuit  
plots.

Just at the time when James might well have felt anxious, a letter arrived from Sir Thomas Parry, the Ambassador at Paris,\* in which he mentioned that the Nuncio had sent him a message, to the effect that he had received authority from the Pope to recall from England all turbulent priests, the Pope having declared against their seditious practices. The Nuncio offered 'that if there remained any in his dominions, priest or Jesuit or other Catholic, whom he had intelligence of for a practice in his State which could not be found out, upon advertisement of the names he would find means by ecclesiastical censures they should be delivered to his justice.'†

Proposal  
made  
through  
the Nuncio  
at Paris.

No notice was at first taken of this proposal. In November, however, James determined to avail himself of this opportunity of avoiding priestly conspiracies for the future, and prepared a letter, written nominally to Parry, but accompanied by another written by Cecil, in which the Ambassador was directed to forward the King's letter to the Nuncio, though, for the sake of avoiding scandal, he was to take care to have no personal communication with him.‡ Together with the letter,

James's  
answer.

\* Aug. 20, 1603. *S. P. Fr.*

† A similar proposition was made through the Nuncio at Brussels. Tierney's *Dodd.* iv., App. 60.

‡ James to Parry, in Tierney's *Dodd.* iv., App. 66; Cecil to Parry, Nov. 6, *S. P. Fr.*

CH. II.  
1603. a copy of Sir James Lindsay's instructions was sent, in order that the bearer, who had not yet set out for Rome, might not be able at any future time to enlarge upon them.

About the same time another deputation of Catholics waited upon the Council. They were probably afraid lest their cause should be injured by the detection of the late conspiracies. They were assured that the King would keep his word, and that the fines would not be exacted.\*

In the letter which was to be delivered to the Nuncio, James thanked the Pope for his courtesy, and approved of his conduct in not sending a Nuncio to London. As to the Catholics who would live peaceably, they should be treated in such a manner that the Pope himself would be unable to find fault with his proceedings..

1604. On the 13th of February, Parry wrote to say that he had had an interview with the Nuncio, and had seen two letters which had been received from Rome. These letters, which were written by Cardinal Aldobrandini, were considered by Parry to be unsatisfactory. However this may have been, the negotiation came to an end.†

The nego-  
tiation  
comes to  
an end.

1603. Perhaps an incident which had just occurred had something to do with the temper in which the English Government received the news of the failure of this attempt. In the course of the preceding summer Sir Anthony Standen had been sent by James on a mission to some of the Italian States. His selection for this comparatively unimportant service seems to have turned his head. He was himself a Catholic, and was eager to distinguish himself by taking part in the grand scheme for reconciling England to the See of Rome. The Pope, who imagined, perhaps not without reason, that the Queen was inclined to change her creed, not only made use of Standen to enter into a clandestine correspon-

Standen's  
proceed-  
ings in  
Italy.

\* *Petition Apologetical*, p. 27. I may take this opportunity of mentioning that a letter of James to the Bishops among the S. P., calendared under the date of Sept. (?) 1603, must have been written in Feb. or March 1605. A letter ascribed to Whitgift, calendared under Dec. 1603, has been removed to 1625.

† Parry to Cecil, Jan. 5 and Feb. 13, 1604, *S. P. Fr.*



dence with her, but actually sent presents for her to the Nuncio at Paris, who was directed to deliver them to Standen as he passed through that city on his return. Standen was not a man to keep a secret. He had hardly set foot in England before his whole scheme was known, and he himself was sent to the Tower. James, who was always extremely jealous of being supposed to be under his wife's influence, was, naturally enough, enraged, and at once ordered the presents to be returned.\*

CN. II.  
1604.

This episode of Standen's mission, and the failure of the negotiation with the Pope, no doubt led to the unfortunate step which James almost immediately took. On the 22nd of February a proclamation appeared, commanding all Jesuits and seminary priests to leave the realm before the 19th of March. James was thus beginning to carry out the programme which he had drawn up in his letter to Cecil before he left Scotland. Toleration to the laity, joined with a refusal of toleration to the clergy, was to be the principle of his action. How long would he be able to maintain himself in such a course as this?

Proclamation for  
banishing  
the priests.

And yet it seemed a legitimate course enough. James, in common with all the statesmen of the time, saw in the Jesuits and priests nothing but a social and political evil, which they were in duty bound to suppress. They erred, as men must err who see only one side of a great question. They did not see that it was impossible to deal with the priests alone. In the eyes of the Catholic laity, the presence of their clergy was positively necessary to their spiritual well-being and to their eternal salvation. The banished priests would be certain to slip back one by one to their old lurking-places, and the spirit of disaffection would again spread, to be met once more by persecution.

Miserable as the path was upon which James was entering, there is no reason to regret the failure of the negotiations with the Pope. Cecil and Parry, as is plain

\* Cecil to Parry, Jan. 24 and Feb. 14, *S. P. Fr.* Villeroi to Beaumont, Nov. 27, 1603.—*King's MS.* 124, fol. 599 a.  
Dec. 7.

CH. II.  
1604.

to any one who reads their letters, instinctively felt that the proposal was a mistake. No English sovereign had a right to undo the great work of Henry VIII. and of Elizabeth by entertaining for a moment the thought of bargaining with a foreign power for the obedience of his subjects. Happily the country was saved from the momentary error. The English Government has made many mistakes, but it has never submitted to a concordat.

Negotia-  
tions with  
Spain.

While these 'shadowy negotiations were meeting with the fate which they deserved, the Governments of Spain and England were still fencing with one another in their preparations for a peace which every one knew to be inevitable. Towards the end of July 1603, Aremberg requested James to mediate between his master and the States.\* A week or two later the King wrote to the States, telling them that he had given no answer to Aremberg till he heard from them whether they would join the treaty.† This letter was accompanied by another from the Privy Council to Sir Ralph Winwood, the English member of the Dutch Council, assuring him that though the King was desirous of treating, he would conclude nothing to their disadvantage. If the Spaniards declined to admit the States to the negotiations, the English would refuse the peace altogether. If the States refused his offer of including them in the treaty, James would even then insist upon a clause being inserted, assigning a time within which they might be admitted.‡ At the same time permission was granted to Caron, the Ambassador of the States in London, to levy a regiment in Scotland. The States, however, were not to be won by these advances. They firmly refused to treat on any conditions whatever.§ England must therefore negotiate for itself, if it was not to be dragged into an interminable war.

In the autumn James seems to have been less inclined to peace than he had hitherto been. Towards

\* Beaumont to the King of France, <sup>July 27.</sup> Aug. 9, 1603, *King's MS.* 124, fol. 361 a.

† James to the States, Aug. 10, 1603, *Winw.* ii. 1.

‡ Lords of Council to Winwood, Aug. 10, 1603, *Winw.* ii. 2.

§ Winwood to Cecil, Aug. 21, *S. P. Holland.*

the end of September, the Count of Villa Mediana arrived with letters from the King of Spain; but there was some informality in the address, and, above all, he brought no commission to treat. The Duke of Frias, the Constable of Castille, was expected to bring the necessary powers after Christmas. Meanwhile, James heard that Villa Mediana was employing his time in opening communications with the principal Catholics, and in giving presents to the courtiers.\*

CH. II.  
1604.

In the middle of January the Constable arrived at Brussels. He begged that the English Commissioners might be sent to treat with him there, as he was labouring under an indisposition.† This was of course inadmissible. Spain had refused at Boulogne to allow the Ambassadors of the Queen of England to occupy an equal position with her own: she must now acknowledge her defeat by coming to London to beg for peace. After a delay of nearly four months the conferences commenced, the Constable‡ having sent his powers over to those whom he appointed to treat in his name.

Arrival of  
the Con-  
stable.

On the 20th of May the Commissioners met for the first time. On the English side were the Lord Treasurer, the Lord Buckhurst of Elizabeth's reign, who had recently been created Earl of Dorset; the Lord High Admiral, the Earl of Nottingham, who, as Lord Howard of Effingham, had seen the Armada fly before him; the Earl of Devonshire, fresh from the conquest of Ireland, where he had been known as Lord Montjoy; Lord Henry Howard, now raised to the peerage by the title of Earl of Northampton; and last, but not least, the indefatigable Secretary, Lord Cecil.

Meeting of  
the Com-  
missioners.

On the part of Spain appeared Don Juan de Taxis, Count of Villa Mediana, who had been appointed Ordinary Ambassador to England, and Alessandro Rovida, Senator of Milan, upon whom was laid the chief burden of sustaining

\* Beaumont to the King of France, <sup>29<sup>th</sup></sup> <sup>16<sup>th</sup></sup> Oct. <sup>17<sup>th</sup></sup> <sup>16<sup>th</sup></sup> Oct. 1603, *King's MS.* 124, fol. 471 a, 497 a, 514 a.

† Beaumont to the King of France, Jan. <sup>16<sup>th</sup></sup> <sup>16<sup>th</sup></sup> 1604, *King's MS.* 124, fol. 721 b.

‡ Beaumont to the King of France, May <sup>16<sup>th</sup></sup> <sup>16<sup>th</sup></sup> 1604, *King's MS.* 125, fol. 232 a.

## CH. II.

1804.

The conferences.

the interests of the King of Spain. The Archduke had sent as his representatives the Count of Aremburg, the President Richardot, and the Audiencer Verreyken.

As soon as some merely formal difficulties had been set aside, Rovida opened the discussion by proposing that England should enter into an offensive and defensive alliance with Spain.\* This proposition having been instantly rejected, he then asked for a merely defensive league, or at least for a mutual promise not to assist those who were in rebellion against the authority of either Sovereign. This, of course, brought forward the real question at issue. Richardot asked Cecil in plain language what he intended to do about the States. Fortunately, Cecil had now gained the full support of his master. James had already told Aremburg that he refused to consider the Dutch as rebels. Cecil begged the Commissioners not to press him to dispute whether they were rebels or no. However that might be, 'he would boldly affirm that the contracts which were made by the deceased virtuous and pious Princess (whose memory he was ever bound to honour) with those that call themselves by the name of the United Provinces were done upon very just and good cause.' He demanded whether Spain would regard the interruption of trade between England and Holland as essential to the peace; and Rovida was obliged to give way.

In fact, Cecil knew that he was playing a winning game. It was not his fault that the States refused to be included in the negotiations, but as they had, he was determined that they should suffer no loss which could possibly be avoided. He knew how necessary peace was for Spain. The Spaniards knew it too, and step by step they gave way before him.

Points  
agreed to  
with re-  
gard to  
Holland.

By the treaty which, after six weeks of negotiation, was eventually drawn up, James vaguely promised that he would enter into negotiations with the States on the subject of the 'cautionary towns,' wherein he would

\* There is a most full and interesting report of these discussions, of which the original copy, in Sir T. Edmondes' hand, is among the *S. P. Sp.* There is a copy in Add. MS. 14,033: I wish I had been able to print it in the Appendix, but it is far too long.

assign a competent time 'to accept and receive conditions agreeable to justice and equity for a pacification to be had with the most renowned princes, his dear brethren, which, if the States shall refuse to accept, His Majesty from thenceforth, as being freed from the former conventions, will determine of those towns according as he shall judge it to be just and honourable, wherein the said princes, his loving brethren, shall find that there shall be no want in him of those good offices which can be expected from a friendly prince.\* With such unmeaning verbiage, which, as Cecil a few days later told Winwood to explain to the States,† meant nothing, the Spanish Commissioners were forced to be content. The garrisons of the towns were to be considered neutral. No English ships were to be allowed to carry Dutch goods between Spain and Holland,‡ but no diplomatic arts could gain from the English a promise that their vessels would abstain from carrying Dutch merchandise elsewhere. It was no less in vain that the Spaniards urged that James should prohibit Englishmen from serving in the armies either of the enemies or of the rebellious subjects of his new ally. All that they could obtain was a promise that the King would not consent to the levy of troops for such purposes in his dominions. 'His Majesty,' said Cecil in writing to Winwood,§ 'promised neither to punish nor to stay, but only that he will not consent—a word of which you know the latitude as well as I.' Nor was this a mere equivocation, kept in secret for future use. The Spaniards knew perfectly well what the clause was worth. They had asked that the volunteers which were now serving the States should be persuaded to return, 'which was thought reasonable by their lordships to be promised to be done, so far forth as the parties serving there would be induced thereunto; and thereupon the

\* The treaty is in *Rymer*, xvi. 617, in Latin. The quotations are taken from an English translation in *Harl. MS.* 351.

† Cecil to Winwood, June 13, *Winw.* ii. 23. He pointed out that James was to judge what conditions were agreeable to justice and equity.

‡ This point was not yielded till the Dutch merchants were consulted, *Winw.* ii. 23; and The Merchants' Statement, *S. P. Hol.* (undated).

§ Cecil to Winwood, Sept. 4, *Winw.* ii. 27.

## CH. II.

1604.

articles were so reformed as should neither import any such public revocation, nor to restrain the going of voluntaries thither.' At most, they were obliged to be contented with the promise that James would himself be neutral, and would throw no hindrances in the way of enlistment for the Archduke's service.

In estimating the effect of this treaty upon the States, it must be remembered that by none of its articles were they deprived of any assistance from England, which they had enjoyed since the last agreement in 1598.\* At that time, Elizabeth, considering that the States were able to defend themselves, stipulated that they should pay the English soldiers in their service. This state of affairs was not affected by the treaty with Spain. The only possible injury which they could receive would arise from the loss of the co-operation of the English ships; but, with their own flourishing navy, it was certain that this loss would not be severely felt. Dissatisfied as they undoubtedly were with what was, in their eyes, a desertion of the common cause, they could only lay their fingers upon two clauses of which it was possible to complain. The first was one by which a certain small number of Spanish ships of war were allowed to take refuge in an English port when driven by stress of weather, or by want of provisions or repairs; the other, against which Cecil had long stood out, and which was only conceded at the last moment, probably on account of the mercantile interests of the English traders, bound each of the contracting parties to take measures to throw open any ports belonging to the other which might be blockaded. It led, as might have been expected, to embarrassing negotiations with the States. Cecil, however, always maintained that the clause bound him to nothing. 'Howsoever we may "dare operam,"† he wrote to Parry, "by persuasion or treaty, we mean not to keep a fleet at sea to make

\* Nor did they lose anything which they gained by the treaty between France and England in 1603, as the King of France continued to furnish the money.

† The parties were bound 'dare operam' that the ports should be opened.

war upon' the Dutch 'to maintain a petty trade of merchandise.' Finally, it was agreed that if ever the States should be inclined to make any proposal to the Archduke, James should be at liberty to present it on their behalf, and to support it in any negotiations which might follow.

CH. II.  
1604.

If the Spaniards were obliged to content themselves, in the clauses which related to the States, with ambiguities which would certainly not be interpreted in their favour, they fared little better in their attempt to obtain from the English Commissioners a renunciation of their claim to free trade with the Indies. This, indeed, they steadily refused to yield, but they failed in obtaining even the most indirect acknowledgment of its illegality. The English negotiators proposed that a proclamation should be issued forbidding English subjects from trading with places actually in the occupation of the Spanish Government, on condition that Spain would withdraw all pretensions to exclude them from trading with the independent natives. They refused, however, to bind themselves to obtain a written promise from the King that he would prohibit his subjects from engaging in the contraband trade, and the proposition was rejected. They contented themselves, as Elizabeth would have done if she had been alive,\* with ignoring the whole subject in the treaty, though they expressed their opinions strongly enough in the conference.† Such a determination on the part of a Government in our own days would be sheer insanity. It is now understood that it is the duty of the Royal Navy to protect unarmed merchant ships in every quarter of the globe. In the beginning of the seventeenth century it was not likely that, except on some very special service, a single man-of-war would be found even a hundred leagues from the coasts of the British Islands, whether the treaty were

Trade  
with the  
Indies.

\* In her instructions to the Commissioners at Boulogne, the following passage occurs:—'If you cannot possibly draw them to consent to any toleration of trade, that at least you would yield to no prejudice of restriction on that behalf, but to pass that point over.'—*Winst.* i. 212.

† Thus Northampton said, 'Our people was a warlike nation, and having been accustomed to make purchases (i.e. prizes) on the seas, would not better be reduced than by allowing them free liberty of trade.'

CH. II.  
1604.

signed or not. The vessels, half merchantman, half privateer, who were the terror of the Spanish authorities in the American seas, never thought of asking for the protection of the navy. They were perfectly well able to take care of themselves. The only question, therefore, which the English Government had to consider was, whether they should continue the war in Europe in order to force the King of Spain to recognise the right of these adventurers to trade within certain limits, or whether the war was from henceforth to be carried on in one hemisphere alone. If Spain insisted that there should be no peace beyond the line,\* it would be better to leave her to reap the fruits of a policy which before long would give birth to the Buccaneers.

The In-  
quisition.

One other question remained to be solved. Cecil had taken an early opportunity of proposing that English merchants trading with Spain should be free from the jurisdiction of the Inquisition. The Spanish Commissioners answered that where no public scandal was given, the King 'would be careful to recommend' that the Inquisition should leave the belief of English merchants unquestioned; but they thought that those who openly insulted the religion of the country in which they were, would be justly amenable to its laws. Cecil, who was fully alive to the propriety of this distinction, but who knew the iniquitous character of the laws of Spain, protested that there was no reason that Englishmen 'should be subject to the passionate censure of the Inquisition, and be so strangely dealt withal as ordinarily they had been.' If these practices were to continue, the Spaniards who from time to time visited England should undergo similar ill-treatment. The subject was then dropped. When it was again taken up, it was agreed, after a long discussion, that an article should be framed to the effect that 'His Majesty's subjects should not be molested by land or sea for matter of conscience, within the King of Spain's or the Archduke's dominions, if they gave not occasion of public scandal.' The nature of

\* i.e. The line beyond which all lands had been given by the Pope to the King of Spain.



public scandal was defined by three secret articles which were appended to the treaty.\* It was agreed that no one should be molested for any act which he had committed before his arrival in the country; that no one should be compelled to enter a church, but that, if he entered one of his own accord, he should 'perform those duties and reverences which are used towards the holy sacrament of the altar;' that if any person should 'see the holy sacrament coming towards' him 'in any street,' he should 'do reverence by bowing' his 'knees, or else to pass aside by some other street, or turn into some house.' It was also stipulated that if the officers of any ships lying in a Spanish harbour did 'exceed in any matter herein, the Inquisition proceeding against them by office, is only to sequester their own proper goods, and are to leave free the ships, and all other goods not belonging to the offenders.'

CH. II.  
1604.

These articles, which were copied from a similar agreement which had been made between Queen Elizabeth and the Duke of Alva, contained all that the English Government was justified in demanding. Every man who avoided giving public scandal would be freed from all molestation.

At last, after the work had been done, the Constable of Castille arrived, and on the 19th of August James solemnly swore to observe the treaty. The peace was received by the population of the city in sullen silence. Hatred to Spain had entered too deeply into the hearts of Englishmen to make it possible for them to feel any pleasure in what had been done. But those who had negotiated it had the satisfaction of knowing that they had ended an arduous struggle by a just and honourable peace. In a few years the Dutch, left to themselves, would begin to think that it was not impossible for them to follow the example of England. No cause arising from the general position of Continental politics made it advisable to continue the war. The great tide of Papal aggression which threatened in the sixteenth century to swallow up the Protestant States had receded. The

The treaty  
sworn to  
by James.

\* *Winto.* ii. 29.

CH. II.

1604.

second great tide which was destined to inundate Germany in the seventeenth century was still in the future. For the present there was a lull, of which England would do well to take advantage. After the great war with Spain, as in later times after the great war with France, Peace, Retrenchment, and Reform were the objects which every true statesman should have kept in view, if he wished to prepare the vessel of State to meet the coming storm.

The  
Spanish  
pensioners.

The new resident Spanish Ambassador, the Count of Villa Mediana, had other things to do besides fulfilling the ordinary functions of his office. He came provided with gold, to win over the ministers of James to his master's service. That he prevailed upon not a few is an undoubted fact. But it is only two or three of those who accepted his pensions whose names have as yet been discovered.\* That Northampton made no difficulty in entering into a compact with Spain will astound no one. It is as little a matter for surprise that Suffolk, the old sea captain who had fought at the side of Raleigh and Essex, refused to contaminate his fingers with Spanish gold. Lady Suffolk, however, fell an easy victim, and it is probable that through her Lerma knew as much of her husband's secrets as if the Earl himself had been drawn into the net. Sir William Monson, the Admiral who commanded in the Narrow Seas, not only received a pension himself, but assisted the Ambassador in gaining others over.

North-  
ampton.

Lady  
Suffolk.

Sir  
William  
Monson.

Cecil.

But that which is, in every way, most difficult of explanation is that Cecil himself condescended to accept a pension of four thousand crowns, which was raised to six thousand in the following year. Unluckily we know scarcely more than the bare fact. One of the Spanish Ambassadors, indeed, who subsequently had dealings with him, pronounced him to be a venal traitor, who was ready to sell his soul for money. On the other hand, we know that, up to the day of his death, his policy was decidedly and increasingly anti-Spanish. In the negotiations which were just over, he had been

\* See Appendix iii.

CH. II.  
1804.

the steady opponent of the Spanish claims, and, almost at the very moment when he was bargaining for a pension, he was interpreting the treaty, as far as it was possible, in favour of the enemies of Spain. We know also from the evidence of Sir Walter Cope, who, shortly after his death, wrote a defence of his character, at a time when he knew every sentence would be scanned by unfriendly eyes, that he was not accessible to ordinary corruption; and this statement is confirmed by the negative evidence of the silence of the letter-writers of the day on this score, though their letters teem with stories of the bribery which prevailed at Court as soon as power had passed into other hands.

Under these circumstances, till the information which is probably buried in the archives of Simancas shall have been brought to light, and until it is known not only what he received, but what services he rendered in return, it is impossible to hazard more than the merest conjecture as to the motives which induced him to submit to the baseness of accepting such a pension.

Difficulty  
of explain-  
ing his  
motives.

There can, however, be no doubt that though he was generally looked upon as a man who was inaccessible to ordinary bribery, he was never regarded as indifferent to money. He had heaped up a considerable fortune in the service of the State, although he had not condescended to use any improper means to obtain wealth. It is possible, that as soon as the peace was concluded, he, thinking as he did that it was likely to be permanent, offered to do those services for the Spanish Government which, as long as it was a friendly power, he could render without in any way betraying the interests of his own country; whilst, with his very moderate standard of morality, he did not shrink from accepting a pecuniary reward for what he did. This is probably the account of his relations with the French Government, from which also, according to a by no means unlikely story, he accepted a pension.\*

Conjecture  
as to his  
intention. ;

But it is plain that even if this is the explanation of

\* At least Northampton told Sir R. Cotton that he believed that this was the case.—Examination of Sir Robert Cotton, *Cott. MSS. Tit. B. viii. fol. 489.*

CH. II.  
1604.

his original intentions, such a comparatively innocent connection with Spain soon extended itself to something worse, and that he consented to furnish the Ambassador with information on the policy and intentions of the English Government. The only question is, in what spirit he performed his bargain. We shall see that five years later, when the opposition between the two Governments had become more decided, he asked for an increase of his payments, and demanded that they should be made in large sums as each fresh piece of information was given. We shall also see that as England took up a position of almost direct hostility to Spain, the information which the Spanish Ambassador sent home became more and more confused.

In order to explain such facts as these, only two suppositions are possible. Cecil may, no doubt, possessing as he did a considerable fortune, have sold to Spain for a few thousand pounds the secrets which were quite as much his own as his Sovereign's. There is nothing physically impossible in the theory; but, in addition to the difficulties which have been already noticed, there is one which is almost insuperable. Is it possible that a man who had sold himself to betray his master's confidence in this barefaced manner should never once have attempted to obtain money by influencing his master's actions? Would he not have dropped, at least, some word which shewed that he had been won over to the interests of Spain? And yet not only is nothing of the kind on record, but he was universally recognised as the minister who, cautiously indeed, and in no very dignified manner, but yet steadily and successfully, drew England out of the entanglements of a Spanish alliance.

There is one other explanation, which would seem incredible to those who do not know the shifts to which diplomacy had recourse in those times, but which is perhaps the most probable explanation of the difficulty. May not Cecil have seen in the offers of the Spanish Government an opportunity of influencing their counsels? There were many things which he could tell them that really happened which it was important for him that

they should know from an authority upon which they could depend. If, for instance, and this is a case which really occurred,\* James had made up his mind to resist Spanish pretensions in any quarter, Cecil would wish to give the earliest information to that Government, in order that they might not attempt to oppose him under the supposition that no real action was intended on the part of England. There may have been, and there probably were, other cases in which he wished to deceive them by false information, and he may have thought that he could do this better by his own mouth than in any other way: he may have hoped in his turn, in the course of their familiar intercourse, to worm some information out of the Spanish Ambassador himself. With respect to the money which he demanded, he may have thought that far more credit was likely to be given him if he pretended to serve the Spaniards from purely mercenary motives, than if he presented himself in the guise of a disinterested friend of Spain. Nor is it unlikely that he would feel a kind of pleasure in pocketing the gold of which he had thus tricked the enemy of England.

This, as has been said before, professes to be nothing more than a mere conjecture. If it is not accepted, there seems to be no alternative but to set down the name of Cecil among the very basest which have ever stained the annals of this or of any other country. It is certain that if, being what he was, he allowed himself to betray his country for the sake of money, the conduct of Northampton, who after all really believed the Spanish alliance to be advantageous to England, rises at once, by comparison, into heroic virtue.

\* In the affair of Cleves, in 1610.

## CHAPTER III.

### THE HAMPTON COURT CONFERENCE.

#### CH. III.

General  
European  
sympathy  
with Eliza-  
beth.

Views of  
Henry  
VIII.

THE victory which had been won in 1588 was no merely national success. It was a blow struck on behalf of the liberties of Europe, and it carried joy into the hearts of thousands who by no means approved of Elizabeth's domestic policy.

Yet when Henry VIII. commenced the struggle, in which the crowning victory was reserved for his daughter, he had been anxious to keep the enterprise which he had undertaken within limits which would, if possible, prevent it from assuming more than a merely national significance. Both he and his Parliament were desirous to introduce no new principles of belief or of action, and they imagined that they would, without much difficulty, be able to exclude those doctrines which were springing up in foreign lands. It was not to be a religious movement at all. It was to be a simple question of jurisdiction which concerned the English nation alone, excepting so far as foreign governments might profit by its example.

The Eng-  
lish Refor-  
mation,  
a lay Re-  
formation.

The English Reformation has often been described as a Royal Reformation. It may be more correctly designated as a lay Reformation. In other countries the laity acted, but it was generally at the instigation of some great and powerful preacher. In England the laity themselves led the way, whilst those of the clergy who, like Cranmer and Latimer, took part in the movement, were content to follow. England produced no Luther, no Calvin, no Knox: Henry and Elizabeth are the prominent characters in the English Reformation.

In its earlier stages, in spite of the theological training of the King, that Reformation bore the impress of men who were not deeply immersed in theological specula-

tion. Wherever alterations were introduced into the creed and practices of the Church, they were made, not on account of the disagreement of the things abolished with any newly-adapted articles of faith, but because they were, in the estimation of the majority of Englishmen, inconsistent with common sense, or opposed to common honesty.

CH. III.

To what point the English Reformation would have drifted if it had been left to itself, and if the laity had attempted, unaided by foreign influences, to carry the work to its conclusion, it is useless to speculate. It is not improbable that it would have suffered shipwreck in the storms which awaited it on the accession of Mary.

Effect of continental influences.

Happily this was not to be the case. The great movement which was stirring the minds of men on the Continent found its way into England, in spite of all the efforts made by King and Parliament to stop its progress.

Long before the end of the fifteenth century it had become evident that a great crisis was approaching. It was not merely that the ecclesiastical system of the Papacy was giving way before the consolidation of the rising nations of Europe. It was the ideal of the Middle Ages by which that system had been animated which had fled. The asceticism which sought to win a glimpse of heaven by crushing human nature had done its work. Everywhere there was a reaction against overwrought spiritualism. The change had passed even over those who clung to the old belief.

Tendencies of European thought in the fifteenth century.

All who have ever visited Winchester Cathedral will remember the tombs of Fox and Gardiner, the two last Bishops, if we leave the few years of Wolsey out of the account, who occupied the see as Catholics. On each of these tombs lies a skeleton of stone, as the only memorial of the dead who sleep below. What fitter emblem could there be of the dying creed to which these men had attached themselves? They shook, as it were, a skeleton before the eyes of the world, and they wondered that the generation which they sought to save would not reverence it as they had revered the living death of the saints of an earlier age.

CH. III.  
Growing  
profligacy.

Men would have life. If spiritual life were not to be found, let it be material life. It seemed as if the modern world was to pass through a crisis similar to that which had wrecked the earlier civilisations of Athens and of Rome. Kings and popes, nobles and cardinals, were jesting at the restraints to which St. Louis and St. Bernard had joyfully submitted, and were vying with one another in a career of the grossest profligacy. Licentiousness enough, it is true, had defiled society during the whole course of the Middle Ages, but it was as nothing to the licentiousness in which a large part of Europe wallowed during the sixteenth and seventeenth centuries. The one was caused by the outbreak of untamed animal natures as yet unsubdued, by which men were by no means unfitted from feeling, in their calmer hours, the influence of noble thoughts and pure emotions. The other was a wild dance of satyrs, who had cast off every tie of religion and morality, and whose lips never uttered the name of aught that was pure or holy, unless it were to make it the object of light laughter or of coarser ribaldry.

The new  
learning.

It was into such a world as this that the new learning came, bringing with it the spirit of deep research and vigorous energy which characterised the intellectual heroes of that mighty age. The barriers by which the old world had been hemmed in fell back, and the wonders of creation revealed themselves in all their infinite glory on every hand. Under the guidance of the great masters of ancient thought, whose works were once more subjected to a minute and reverent study, the facts of the material universe were brought under investigation. An architecture arose which was regardless of all religious symbolism, whilst it based itself upon the strictest observance of mathematical laws. Great artists enchanted the world by painting men and women as they lived and moved. The boundaries of the earth receded before the hardy mariners of Spain and Portugal, and the secret of the skies revealed itself to Galileo.

Yet marvellous as was the spring taken by the human intellect in the sixteenth century, it failed in the end, whenever it was left to itself, to struggle with success



against the materialism of the age. Amongst those, indeed, who cultivated learned and scientific pursuits much of the better spirit lingered long. Their households were often models of domestic purity, and they not unfrequently kept themselves clean from the corruption which was seething around them. But at last they gave way. A blight was upon them; what consciousness there was of spiritual life passed away; what grasp of truth they had departed from them. Art pursued its downward course, till it knew of nothing better than to minister to the luxury of the rich, and thought grew dull when all recognition of the Divine presence was at an end.

CH. III.

It fails to reform the world.

It is true that to all outward appearance the ecclesiastical system of the Middle Ages retained its power at least over the nations of Southern Europe; but the Church of Loyola was as unlike the Church of St. Bernard and St. Francis as the skeletons on the tombs of Fox and Gardiner were different from the worn but living figures of the sepulchres of an earlier age. The power of Jesuitism rested in the success with which its followers applied themselves to the culture of the understanding and to the discipline of the body, yet in such a way as to destroy that spiritual life which alone makes either of them worth possessing. The progress of the order was the dance of death, which in the sixteenth century took possession of the fairest portions of the Continent.

Loyola and the Jesuits.

In England the soil was better prepared for the change than in any Continental nation. Here at least there was a Commonwealth which could in some degree satisfy the cravings of the human mind for liberty and justice. Here art and science were not left to lose themselves in a world of their own, apart from all human interest.\* Here there was that which called every day for practical self-devotion and for earnest activity. Here there was a country the love of which would keep in check the growing materialism of the age.

Position of England.

\* Readers of Quinet's *Revolutions d'Italie* will remember his description of the miseries which Italy was undergoing whilst some of the noblest masterpieces of art were being produced by Italian hands.

## CH. III.

Those who wish to understand the position which England occupied at the commencement of the modern period of our history would do well to place side by side the three great works of the imagination in which three men of genius embalmed the chivalric legends of the Middle Ages.

The  
'Orlando  
Furioso.'

The work of the Italian Ariosto stands distinguished for the distance at which it lies from all contemporary life. The poet of the 'Orlando Furioso' wanders in an ideal realm of courtesy and valour of which the world around him knew nothing. If his Italian readers ever thought of Italy, it could only be to sigh over the downfall of so many hopes.

'Don  
Quixote.'

Far different is the work of Cervantes. To him the legends which seemed so bright in the eyes of the Italian had become ridiculous. He could see nothing but the absurdity of them. Regarded from this point of view, 'Don Quixote' becomes the saddest book which was ever written. It is the child mocking at his father's follies, whilst he closes his eyes to his nobleness and his chivalry.

The 'Faëry  
Queen' the  
mirror of  
the Eliza-  
bethan  
age.

Shortly before the appearance of 'Don Quixote' another book saw the light amongst a very different people. To Spenser, nursed as he had been amongst the glories of the reign of Elizabeth, all that was noble in the old tales of chivalry had become a living reality. The ideal representations of the knights and damsels who pass before our view in his immortal poem, bring into our memory, without an effort, the champions who defended the throne of the virgin Queen. In England no great chasm divided the present from the past. Englishmen were not prepared to find matter for jesting in the tales which had delighted their fathers, and they looked upon their history as an inheritance into which they themselves had entered.

Yet something more was needed than was to be found by the readers of the 'Faëry Queen.' Devotion to Queen and country was great; honourable self-assertion, and indignation at falsehood, was also great: but if men are to achieve anything which is to endure beyond the moment, their faith must be anchored upon something

higher than their country, something stronger than themselves. The old religious teaching which inculcated self-denial as the whole will of God was gone. Unless it could reappear under some other form, European society would dissolve as surely as did the old societies of the ancient world.

CH. III.

That which, above everything else, saved any part of the modern world from the fate of Athens and of Rome was the existence of the Bible. When the religion of heathenism gave way before the rising spirit of inquiry, all sanctions of morality, except those which a chosen few worked out for themselves, disappeared at the same time. When the Papal system was breaking up, it seemed as though the clouds were drifting away by which the sun had been long obscured. Not a moment intervened during which the mass of men felt any doubt on what they should rest their shaken confidence. Popes and priests might shrivel up in the fire by which they were being tried; but no true Protestant doubted for a moment, as he grasped the Word of God, that he held that in his hands which might well replace them all.

What it was that saved modern society.

This is not the place to speak of the great moral results which were produced by this change, by which rich and poor, learned and ignorant, were enabled to breathe a purer atmosphere than that in which their fathers had lived. There was, however, one effect of the circulation of the Scriptures which must be noted here. Whilst it afforded a firm basis for faith, it was not conducive to unity of opinion. The declaration of a Pope or of a council must be accepted or rejected altogether. If it was misunderstood, it could be repeated in plainer terms. But it was not so with a book. A book could be taken by every man to his own home, and he could read it there by the light of his own mind. He could unconsciously insert into it ideas of his own, and receive them back as the oracles of God. The defenders of the Papal unity were wise in their generation when they sought to prohibit the book which would infallibly aid in disintegrating the hitherto coherent mass.

Effects of the circulation of the Bible.

But if the authority of the Church was giving way,

## CH. III.

Lutheran  
doctrine.

there was still room for the influence of the minds of the great and good. The first who struck the key-note of the new age was Luther. His doctrine of justification gave at once the thought for which all were seeking. It was the exact converse of the religious idea of the Middle Ages. If you would be spiritual, said the monks, put the body to death, and the spirit will see God and live. Let the spirit live in seeing God, said Luther, and the body also will live in accordance with His will.

Such a thought as this could not but be heartily accepted at the time when it was first put forth. It was higher than anything which had proceeded from the students of the new learning, yet it contained that which was exactly suited to their wants. On the one hand, the proclamation of dependence on God alone responded to the desire for personal liberty which was so widely spread. On the other, the stress laid upon morality\* answered to the reaction against the negative asceticism of the past centuries.

The Cal-  
vinistic  
system

If the central thought of Protestantism was expressed by Luther, it was reserved for Calvin to systematise the Protestant doctrine and to organise the Protestant Church.

compared  
with the  
asceticism  
of the Mid-  
dle Ages.

It was well that discipline was possible in the Protestant ranks. The contest which was approaching called for a faith which was formed of sterner stuff than that of which Lutheranism was made. It was necessary that the ideas of self-restraint and of self-denial should again resume their prominence. There is in many respects a close resemblance between the Calvinistic system and that of the medieval Church. Both were characterised by a stern dislike to even innocent pleasures, and by a tendency to interfere with even the minute details of life. The law of God, to which they called upon men to conform, was regarded by both rather as a commandment forbidding what is evil than as a living harmony of infinite varieties. The form of

\* Some, either real or apparent, antinomian sentences in Luther's polemical opinions cannot for a moment weigh against the hearty morality of his life, and the general tendency of his doctrines.

Church government which was adopted in either system was regarded as not only of Divine institution, but as being the one mould in which every Christian Church should be cast. But here the resemblance ended. The pious Catholic regarded close communion with God as the final object of his life, after he had been delivered from all selfish passions by strict obedience to external laws and the performance of acts commanded by an external authority. The pious Calvinist regarded this communion as already attained by the immediate action of the Holy Spirit upon his heart. The course of the former led him from the material to the spiritual. The course of the latter led him from the spiritual to the material. One result of this difference was that the Calvinist was far more independent than the Catholic of all outward observances, and of all assistance from his fellow-men. He stood, as it were, alone with his God. He lived 'ever in his Great Taskmaster's eye.' His doctrine of predestination was the strong expression of his belief that the will of God ruled supreme amidst the changes and chances of the world. His doctrine of the Atonement was replete with his faith, that it is only by an act of God that the world can be restored to order. His doctrine of conversion was the form in which he clothed his assurance that it was only when God Himself came and took up His abode in his heart that he could do His will. There was that in these men which could not be conquered. They were not engaged in working out their own salvation; they were God's chosen children. In their hands they had the Word of God, and, next to that, they had His oracles written in their own hearts. They were liable to mistakes, no doubt, like other men, and in all good faith they complained of the corruption of their hearts; but it was not wonderful that in all critical conjunctures they fancied themselves infallible, because they imagined that their own thoughts were signs to them of the voice of God. If He were for them, who could be against them? Anchored on the Rock of Ages, they could safely bid defiance to all the menaces of the Pope and to all the armies of the mightiest potentates of Europe.

## CH. III.

It is  
favourably  
received in  
England at  
Elizabeth's  
accession.

When Elizabeth ascended the throne, the Calvinistic system of belief had, with some modifications, been eagerly accepted by all thoughtful men in England, and had penetrated with more or less completeness into the minds of those who were, from any cause, engaged in forwarding the Reformation. It owed its success in part to the circumstance that, during the Marian persecution, so many of the English Protestants had come under the influence of the leading minds of the countries in which they passed the time of their exile; but still more to its logical completeness, and to the direct antagonism in which it stood to the doctrines of the Roman Church.

As a system of belief, therefore, Calvinism had gained a footing in England. Its system of Church government, and its mode of carrying on the public worship of the congregation, were likely to meet with more opposition. The English Reformation was, as has been said, a lay Reformation. Such a Reformation was not likely to be conducted according to strict logical rules. Feelings and prejudices which could not be recognised by a thinker in his study necessarily had a large share in the work which had been done. The Calvinistic Reformation, on the other hand, was, above all things, a clerical Reformation. During the greater part of the sixteenth century the thought of Europe was to be found, almost exclusively, in the ranks of the Protestant clergy, and by far the greater part of the Protestant clergy grouped themselves instinctively round the banner of Calvin, the most severe and logical thinker of them all.

The Vesti-  
arian Con-  
troversy.

The first difference was caused by the revival of the Vestiarian Controversy, as it was called, which had already given rise to much confusion during the reign of Edward VI. The vestments which were finally adopted by the Church of England, together with certain other ceremonies, displeased the Calvinistic ministers, not only as relics of Popery, but also as bringing ideas before their minds which were incompatible with the logical perfection of their system. They believed that the operations of Divine grace, so

far as they were carried on through human agency at all, were attached to the action upon the mind, either of the written Word, or of the preaching of the Gospel. To imagine that the heart could be influenced by outward forms and ceremonies, or that the spirit could be reached through the bodily organs, was an idea which they were unable to grasp.\*

The laity, on the other hand, as a body, did not trouble themselves to consider whether or not such things fitted into the religious theory which they had adopted. Certain ceremonies and certain vestments had been abolished because they were universally understood to be connected with imposture or falsehood. But they were unable to comprehend why a man could not wear a surplice because he believed the doctrines of predestination and justification by faith, or why he could not reverently kneel during the administration of the Communion because he was certain that that which he took from the hands of the minister had not ceased to be veritable bread and wine.

With all these feelings Elizabeth was inclined to sympathise. Herself fond of outward pomp and show, she would have been glad to see in use rather more of the old forms than those which she found it advisable to retain. But there were graver reasons which justified her, during the earlier years of her reign, in her opposition to those who clamoured for a simpler ritual. The great mass of the clergy themselves were at heart opposed to Protestantism. Of the laity, a very large number looked coldly even upon moderate deviations

Elizabeth decides against the Nonconformists.

\* Of course, they could not reject the two sacraments, but they connected them with preaching as much as possible. In the Scottish Confession of Faith of 1560, we find: 'That sacraments be rightly ministrate we judge two things requisite; the one, that they be ministrate by lawful ministers, whom we affirm to be only those that are appointed to the preaching of the word, into whose mouth God hath put some sermon of exhortation,' &c. (Art. xxii.) On the other hand, their hatred of formality made them say, 'We utterly condemn the vanity of those that affirm sacraments to be nothing else but naked and bare signs' (Art. xxi.) Bacon remarked the prevalence of the same idea amongst the English Puritans: 'They have made it almost of the essence of the sacrament of the supper to have a sermon precedent.'—On the Controversies of the Church, Spedding's *Letters and Life*, i. 93.

CH. III. from the forms to which, excepting for a few years, they had been so long accustomed. Even those who, from horror at the excesses of Mary, sympathised with the overthrow of priestly domination, were by no means inclined to part with the decent forms and reverent ceremonies which remained. If Elizabeth had carried out the Reformation in the spirit of Cartwright and Humphreys, many years would hardly have passed over her head before the House of Commons would have been found supporting the principles which had been maintained by Gardiner and Bonner in her father's reign. What the tendency of those principles was, England had learned only too well by a bitter experience.

It speaks volumes in favour of the conciliatory effects of English institutions that Elizabeth was able to find amongst the Calvinist clergy men who would assist her as bishops in carrying out the settlement upon which she had determined. They would themselves have preferred to see alterations made to which she was unwilling to assent, but they were ready to give up points which they judged to be comparatively unimportant, rather than to put the fortunes of Protestantism itself in jeopardy. If, so late as in 1571, Archbishop Parker had to write that 'the most part of the subjects of the Queen's Highness disliketh the common bread for the sacrament,'\* we may be sure that any general attempt to adopt the simple forms of the Genevan ritual would have met with similar disfavour. Even if Elizabeth had been inclined to try the experiment, she could not have afforded to run the risk. There was, probably, not more than a very little pardonable exaggeration in the words which in 1559 were addressed by Granvelle to the English Ambassador. 'It is strange,' he said, 'that you believe the world knoweth not your weakness. I demand, what store of captains or men-of-war have you? What treasure, what furniture for defence? What hold in England able to endure the breath of a cannon for one day? Your men, I confess,

\* *Parker Correspondence*, p. 373.



are valiant, but without discipline. But, admit you had discipline, what should it avail in division? The people a little removed from London are not of the Queen's religion. The nobles repine at it, and we are not ignorant that of late some of them conspired against her.'\*

CH. III.

Strong, however, as the reasons were which urged all prudent men to caution, it is not to be wondered at that there were some of the clergy who refused to give way. Amongst their ranks were to be found some of the most learned men and the ablest preachers in England. To them these trifles were of the utmost importance, because in their eyes they were connected with a great principle. To Elizabeth they were nothing but trifles, and her anger was proportionately excited against those who upon such slight grounds were bringing disunion into the Church, and were troubling her in the great work which she had undertaken.

Some of the clergy persist.

For some years she bore with them, and then demanded obedience, on pain of dismissal from the offices which they held. At the same time she repressed with a strong hand a little company of Nonconformists who held their meetings in a private house, and committed to prison those persons who had been present at these gatherings.

The Queen takes active steps against them.

Those who know what the subsequent history of England was are able to perceive at a glance that she had brought herself into an untenable position. In fact, there were only two courses open before her which could have been pursued with any hope of success. To expect that in a free country, amidst free discussion, where every man was prepared to form his own opinions, one system of religious belief and one form of worship could be forced upon the whole nation by the authority of the Government, was the veriest day-dream that ever crossed the imaginations of sober men. The only question which really existed was, whether the Church of England should be what we have known her in our own days, an established Church, surrounded by independent

\* Wright's *Queen Elizabeth*, i. 24.

CH. III. congregations; or whether she would enlarge her pale and admit, within certain recognised limits, diversities of belief and varieties of outward form. But whilst the former alternative was repugnant to all the feelings of the age, the latter was equally unacceptable to the Queen. As yet, the hope that all Englishmen would continue to hold the same faith, and to submit to the same ecclesiastical regulations, was still too lively for any earnest men to see with indifference a separation of which none could foretell the end. And, at least until the generation had died out which remembered the enticements of the Roman Catholic ceremonial, it was only with extreme caution, if at all, that the resisting clergy could be allowed to take their places in the different parishes. At a later time the wisest statesmen, with Burghley at their head, were in favour of a gradual relaxation of the bonds which pressed upon the clergy. Excepting perhaps in a few parishes in large towns, the time had not yet come when this could be done with impunity.

It is unnecessary to say that Elizabeth was influenced by other motives in addition to these. She regarded with suspicion all movements which were likely to undermine the power of the Crown. She saw with instinctive jealousy that opposition might be expected to arise from these men on other questions, besides the one which was on the surface at the time. This feeling of dislike was strengthened in her as soon as she discovered that the controversy had assumed a new phase. In her eyes Nonconformity was bad enough, but Presbyterianism was infinitely worse.

Presbyterian system of Church government.

Calvinism was, as has been said, a clerical movement; and it was only to be expected that the system of Church government and discipline which Calvin had instituted at Geneva should be regarded with favourable eyes by large numbers of the Protestant clergy. There is not the smallest reason to doubt that these men honestly believed that the government of the Church by presbyters, lay-elders and deacons, was exclusively of Divine appointment. But it cannot be denied that such a system was more likely to find acceptance among them

than any other in which a less prominent position had been assigned to themselves. The preacher was the key-stone of Calvin's ecclesiastical edifice. Completely freed from any restraint which the authorities of the State might be inclined to place upon him, he was to be supreme in his own congregation. This supremacy he was to obtain, it is true, by the force of eloquence and persuasion combined with the irresistible power of the great truths which it was his privilege to utter. His hearers would choose elders to assist him in maintaining discipline and in the general superintendence of the congregation, and deacons who were to manage the finances of the church. But as long as he had the ear of his congregation he stood upon an eminence on which he could hardly be assailed with impunity. Whatever matters involved the interests of more than a single congregation were to be debated in synods, in which, although laymen were allowed to take no inconsiderable share, the influence of the ministers was certain to predominate. CH. III.

In Scotland, where this scheme was carried out, there were few obstacles to its success. There the aristocracy who had taken part in the Reformation were satisfied, for the time, with plundering the Church of its property, and were far too backward in civilisation to originate any ecclesiastical legislation of their own. As a spiritual and intellectual movement, the Scottish Reformation had been entirely in the hands of the preachers, and it followed, as a matter of course, that the system of Church government which was adopted by the nation was that which assigned the principal part to those who were the chief authors of the change. It is true that, in theory, a considerable influence was assigned to the laity in the Presbyterian system; but it was to the laity regarded as members of a congregation, not as members of a state. In the eye of the Presbyterian clergy, the king and the beggar were of equal importance, and ought to be possessed of only equal influence, as soon as they entered the church doors. Noble as this idea was, it may safely be said that this organised ecclesiastical democracy could not flourish

Presbyterianism unacceptable in England.

CH. III. upon English soil. England has been Papal, Episcopal, and Independent; she has shouted by turns for the authority of Rome, for the Royal Supremacy, and for the Rights of Conscience. One thing she has steadily avoided: she has never been, and it may be affirmed without fear of contradiction, that she never will be, Presbyterian.

The nation saw at once that the system cut at the root of the cardinal principle of the English Reformation, the subjection of the clergy to the lay courts. The Queen occupied her position as trustee for the laity of England. She expressed the feelings of the great body of her subjects when she refused to assent to a change which would have brought an authority into the realm which would soon have declared itself to be independent of the laws, and which would have been sadly subversive of individual freedom and of the orderly gradations of society upon which the national constitution rested.

Regarded  
by Bacon  
as unfavourable to  
liberty.

For it is not to be supposed that the Presbyterian clergy in the sixteenth century claimed only those moderate powers which are exercised with general satisfaction in Scotland at the present day. The Genevan discipline was a word of fear in the ears of English laymen. The system which led to its introduction would, in the opinion of many besides Bacon, be 'no less prejudicial to the liberties of private men, than to the sovereignty of princes,' although it would be, 'in first show, very popular.'\*

Reasons  
which justify his  
opinion.

As a religious belief for individual men, Calvinism was eminently favourable to the progress of liberty. But the Calvinistic clergy, in their creditable zeal to ameliorate the moral condition of mankind, shared to the full with the national statesmen their ignorance of the limits beyond which force cannot be profitably employed for the correction of evil. Their very sincerity made it more injurious to the true cause of virtue to intrust them with the power of putting into force measures for the repression of vice, than it was to leave similar powers in the hands of the statesmen of the day.

\* Writing in Walsingham's name, Spedding's *Letters and Life*, i. 100.

The thousand feelings by which restraints were laid upon men of the latter class, their prejudices, their weaknesses, and occasionally even their profligacy itself, combined with their practical sagacity in diminishing the extent to which they were willing to punish actions which should never have been punished at all. With the Calvinistic clergy these feelings were totally inoperative. Penetrated with the hatred of vice, and filled with the love of all that was pure and holy, they saw no better way of combating evils which they justly dreaded than by directing against them the whole force of society, in the vain hope of exterminating them by a succession of well-directed blows. Of the distinction between immorality and crime they knew nothing. If they had been true to their own principles, they would have remembered that, whenever in cases of immorality they failed to purify by admonition and exhortation the corruption of the heart, they had nothing more to do. If it was contrary to spiritual religion to attract the mind by outward forms, it was far more contrary to it to force the mind by external penalties. By an intelligible inconsistency, they allowed this argument to drop out of sight. They did not, indeed, themselves claim to inflict these punishments; in theory they had drawn the line too distinctly between the spheres of the ecclesiastical and the secular jurisdiction to admit of that. They contented themselves with pronouncing excommunication against offenders. But in their hands excommunication was not merely the merciful prohibition of partaking of a Christian sacrament; it carried with it the exposure of the guilty person to an intolerable isolation amongst his fellows, and it finally necessitated a public and degrading ceremonial before he could again be received into favour.

They went further still. The penalties which they shrunk from inflicting themselves, should be, in their opinion, carried into execution by the civil power. Once more offenders were to be delivered to the secular arm. The Scottish second Book of Discipline distinctly enumerates among the functions of the civil magistrate the duty of asserting and maintaining 'the discipline

Assistance  
of the civil  
magistrate  
expected  
to main-  
tain dis-  
cipline.

CH. III. of the kirk' and 'of punishing them civilly that will not obey the censure of the same,' though it takes care to add, that this is to be done 'without confounding always the one jurisdiction with the other.'\* The same opinion was expressed by Cartwright, the leader of the English Presbyterians, when he urged that 'the civil magistrate' should do well to provide 'some sharp punishment for those that condemn the censure and discipline of the Church.'†

A reservation was expressed of the rights of the civil authorities. But it is plain that Cartwright and his friends regarded it as the duty of the authorities to inflict punishment on those who resisted the decrees of the Church, without assigning to them any right of revising those decrees. It was also possible, that when the civil powers refused to put their decisions in execution, the ministers might think themselves justified in stirring up a democratic resistance against a system of government which received the approval of the wiser and more practical portion of the laity.

In taking her stand, as she did, against the abolition of the Episcopacy, by which the clergy were restrained from carrying out such views as these, Elizabeth was on the whole acting on behalf of the liberty of her subjects. The simple expedient of allowing the Presbyterians to introduce their system wherever they could find congregations who would voluntarily submit to the discipline, on condition of their renunciation of all the emoluments and privileges of their former position, would have been as repulsive to the ministers themselves, as it certainly was to the Queen. They asked for no position which was to be held on sufferance; their claim was, that their system was directly commanded by the Word of God, and that, without grievous sin, not a moment could be lost in delivering the whole Church of England into their hands.

At all costs, if England was not to be thrown into confusion from one end to the other, some measures

English  
Episco-  
pacy.

\* Chap. x.

† *Second Admonition to Parliament*, p. 49.

must be taken by which such consequences might be averted, and the only contrivance that presented itself to the mind of the Queen was the maintenance of the Episcopal Constitution. Episcopacy was indeed looked upon in a very different light from that in which it had been regarded in the days of Becket, and from that in which it was afterwards regarded in the days of Laud. To all outward appearance, the position of the Bishops in the Church of England was the same as that which they occupied in the following century. The same forms were observed in their consecration; the functions which they were called on to fulfil were identical with those which devolved upon their successors. But whereas in the seventeenth century they were looked upon as the heads of an ecclesiastical system in alliance with the King, in the sixteenth century they were mainly regarded as forming the principal part of the machinery by which the clergy were kept in subordination to the laity. The powers vested in the Crown by the Acts of the first Parliament of Elizabeth were sufficient to keep the Church down with a strong hand; but it was thought desirable, if possible, to keep the clergy in order by means of members of their own body. It is no wonder that the Bishops, who were regarded by statesmen as guarantees of peace and order, were looked upon by Presbyterians as traitors to the cause of Christ and of the Church. All this obloquy they were ready to endure in order to save the nation from falling away once more to the Pope. Many of them were probably careless whether the Church was to be governed by bishops or by presbyters; almost all of them were ready to agree with those who urged the abolition of the ceremonials. But they saw in the state of public feeling enough to make them distrust all extreme measures, and, at the risk of being considered faithless to the cause which they had most at heart, they offered their services to the Queen.

The cardinal principle of the English Reformation is the doctrine of the Royal Supremacy. If we regard the Sovereign as the representative of the State, the declaration that he is supreme over all persons and all

The Royal  
Supremacy.

CH. III. causes, ecclesiastical as well as civil, may be justly spoken of as one of the corner stones of the liberties of England. It meant, that there should be no escape from submission to the law of the land, and that justice alone, and not privilege, was to rule the relations which existed between the clergy and the people.

Use to  
which it  
might have  
been put.

But true as the principle was which had been thus laid down, its application was most injurious to the English people, because the Crown attempted to exert its authority in regions where it was impossible for it to act beneficially. The attempt to produce uniformity by compulsion could not, by any possibility, be attended by satisfactory results. There was plenty of scope for the exercise of the Royal authority, if the Queen had contented herself with taking care that into whatever form the Church might mould itself spontaneously, the clergy should never be allowed to take advantage of their endowments to drag the laity in their wake against their will, or to use the influence which they might possess over an admiring congregation to tyrannise over individual members of it.

Such a course would, no doubt, have been far less simple than the one which was actually adopted. The Government would have been necessitated to put up with many things which they disliked, and to look quietly on whilst what they considered to be evils of the most portentous magnitude were growing up around them unchecked. But that it would ultimately have conduced to the spiritual growth, as well as to the material prosperity of the nation, can hardly be denied by anyone who has given more than a superficial study to the history of the seventeenth century.

Evils of  
the Eliza-  
bethan  
Episco-  
pacy.

It is possible, that the evils which were inherent in Elizabeth's ecclesiastical system itself were surpassed by those which were unavoidably connected with her determination to control the clergy by means of members of their own order. That they should be brought to submit to decisions which were given by the judges of the land would have been, if an unwelcome, at least an intelligible necessity; but that a few clergymen should be selected by the Crown, and set to keep the rest in order, was a



proceeding against which human nature revolted. Even if the selections made had always been unexceptionable, it would have been impossible for the Bishops to continue long to serve two masters. They could not with impunity on one day associate with their clergy and their people on terms of familiarity, bringing comfort and warning to those who were labouring under their charge, and the next day appear clothed in all the authority with which the Sovereign had invested them, in order that they might punish and correct with heavy penalties those who refused to listen to their voice. Nor could it be expected, that as Elizabeth warmed with the strife, and as the voice of opposition grew louder every day, she would continue to choose such men as those in whom she had placed her confidence when she first took her place upon the throne. She soon showed that she was too ready to reject the counsels of their wisdom for the dictates of her own imperious will. By degrees, her Bishops became mere partisans, and ceased to have any claim to be respected as the common fathers of the Church. What they gained in power, they lost in influence; and they quickly threw away all hopes of obtaining that reverence which would certainly have been their portion if they had been allowed to content themselves with the spiritual duties of their office.

That Elizabeth failed to see which was the true path amidst the difficulties which beset her, can hardly cause astonishment in those who know how great those difficulties were. On the contrary, it would have been most surprising if she had anticipated the experience of the age which was yet to come. But the consequences of mistakes are none the less certain because they are made in ignorance. If it were not so, there would be no hope that they would ever be brought to light and remedied. It must never be forgotten that the miserable failure of the Episcopal system, in the form which it acquired under the hands of Elizabeth, is the best comment upon the wisdom of that system. But it must also be remembered that it was by that very failure that the English nation was, to some extent, instructed in the true nature of the principles by which the relations between Church

## CH. III.

and State ought to be guided, and that, by means of that bitter lesson, the value of liberty and toleration sank deeply into the hearts of the whole people.

Whitgift's  
argument  
against  
Cart-  
wright.

It was inevitable that strife, and not peace, should be the result of what Elizabeth had done. When Cartwright, at that time Professor of Divinity in the University of Cambridge, stood forth to defend the Presbyterian government, he was met by Whitgift with the argument that there was no reason to imagine that the forms of Church government were prescribed in the Scriptures. Christ, he said, having left that government uncertain, it might vary according to the requirements of the time. He then proceeded to argue that the existing constitution of the Church of England was most suitable to the country in the reign of Elizabeth.

It might be supposed that such principles would have inspired the men who held them with conciliatory sentiments. This, unfortunately, was not the case. Whitgift and those who thought with him seemed to regard their opponents as enemies to be crushed, rather than as friends whose misdirected energies were to be turned into some beneficial channel. Even the good and gentle Grindal had no other remedy for Presbyterianism than to send half a dozen of its most attached disciples to the common gaol at Cambridge, and another half-dozen to the same destination at Oxford.

Grindal,  
Arch-  
bishop of  
Canter-  
bury.

But if Grindal forgot himself for a moment, he was soon able to vindicate his claim to respect as the occupant of the highest seat in the English Church. In one of the gravest crises through which that Church ever passed he stood forth as her champion, under circumstances of peculiar difficulty and danger. It was plain that the energies of the Government could not long continue to be occupied with merely repressive means, without serious detriment to the Church, the interests of which those measures were intended to protect. It was all very well to enact rules for the regulation of questions in dispute; but unless the conforming clergy could put forth some of the energy and ability which were to be found on the opposite side, the Bishops and their regulations would, sooner or later, disappear together. The Bishops them-

selves were not in fault. They had long grieved over the condition of the clergy. In most parishes, the very men who had sung mass in the days of Mary now remained to read the service from the Book of Common Prayer. The livings were generally so small that they offered no inducement to any one to accept them who was above a very humble station in life. It was well if the incumbents could blunder through the prescribed forms, and could occasionally read a homily.

CH. III.

Low condition of the clergy.

The consequence of this state of things was, that whilst churches where sermons were preached were crowded, those where they were not were deserted. The only hope of a better state of things lay in the prospect of obtaining the services of the young men of ability and zeal, who were growing up to manhood, in the Universities. But such men were generally found among the Puritans, as the Nonconformists and the Presbyterians began to be alike called in derision. Unless some means were employed to attract such men to the existing order, the cause which Elizabeth had done so much to sustain was inevitably lost.

About the time that the Presbyterian controversy was at its height, an attempt was made at Northampton to introduce to some extent discipline into the Church. The incumbent of the parish, in agreement with the mayor of the town, organised an association for religious purposes. Many of their regulations were extremely valuable, but they allowed themselves to inquire too closely into the private conduct of the parishioners, and the mayor even lent his authority to a house to house visitation, for the purpose of censuring those who had absented themselves from the communion. Together with these proceedings, which may well have been regarded as inquisitorial, sprang up certain meetings, which were termed Prophecyings. These exercises, which, in some respects, resembled the clerical meetings of the present day, were held for the purpose of discussing theological and religious subjects, and were regarded as a means by which unpractised speakers might be

Proceedings at Northampton.

The Prophecyings.

\* Hooker, *Ecc. Pol.* v. xxii. 17.

CH. III. trained for the delivery of sermons. Care was to be taken that the meeting did not degenerate into a debating society.

The Prophe-  
sings are gene-  
rally  
adopted  
with good  
effect.

These Prophe-sings spread like wildfire over the kingdom. They were too well fitted to meet the wants of the time not to become rapidly popular. Abuses crept in, as they always will in such movements; but, on the whole, the effect was for good — men who had before been unable to preach, acquired a facility of expression, and a readiness to fulfil the duty of preaching. The lukewarm were stirred up, and the backward encouraged, by intercourse with their more active brethren. Ten Bishops, with the Archbishop of Canterbury, the venerable Grindal himself at their head, encouraged these proceedings, which, as they fondly hoped, would restore life and energy to a Church which was rapidly stiffening into a mere piece of state machinery.

Grindal  
draws up  
rules to  
prevent  
abuses.

The Archbishop drew up rules by which the abuses which had occurred might be obviated for the future. The meetings were to be held only under the direction of the Bishop of the diocese, by whom the moderator was to be appointed. The Bishop was to select the subject for discussion, and without his permission no one was to be allowed to speak. This permission was never, on any account, to be accorded to any layman, or to any deprived or suspended minister. Any person attacking the institutions of the Church was to be reported to the Bishop, and forbidden to take part in the exercises on any future occasion.

Under such regulations these meetings deserved to prosper. They were undoubtedly, as Bacon long afterwards said, when he was urging their resumption, 'the best way to frame and train up preachers to handle the Word of God as it ought to be handled.'\*

Elizabeth  
regards  
their meet-  
ings with  
suspicion.

But, unfortunately for herself and for England, the Queen looked upon these proceedings from a totally opposite point of view. She had sagacity enough to

\* *Certain Considerations for the better Establishment of the Church of England.*

leave unnoticed opinions which differed from her own, provided that they would be content to remain in obscurity, and were not paraded before the eye of the public; but for the clash of free speech and free action she entertained feelings of the deepest antipathy. Even preaching itself she regarded with dislike. Very carefully chosen persons from amongst the clergy, on rare occasions, might be allowed to indulge a select audience with the luxury of a sermon; but, in ordinary circumstances, it would be quite enough if one of the Homilies, published by authority, were read in the hearing of the congregation. There would be no fear of any heretical notions entering into the minds of men who, from one year's end to another, never listened to anything but those faultless compositions. If two preachers were to be found in a county, it was enough and to spare.

CH. III.

Her dislike of preaching.

With such opinions on the subject of preaching, she at once took fright when she heard what was going on in different parts of the kingdom. She determined to put a stop to the Prophecyings. Like an anxious mother, who is desirous that her child should learn to walk, but is afraid to allow it to put its foot to the ground, she conjured up before her imagination the overthrow of authority which would ensue if these proceedings were allowed. She issued a letter to the Bishops, commanding them to suppress the Prophecyings.

She takes fright,

and orders the suppression of the Prophecyings.

In spite of the storm which was evidently rising, the brave old Archbishop took his stand manfully in opposition to the Queen. Firmly, but respectfully, he laid before her, in its true colours, a picture of the mischief she was doing. He begged her to think again before she committed an act which would be the certain ruin of the Church. As for himself, he would never give his consent to that which he believed to be injurious to the progress of the Gospel. If the Queen chose to deprive him of his archbishopric, he would cheerfully submit, but he would never take part in sending out any injunction for the suppression of the Prophecyings.

Grindal protests,

Grindal's remonstrances were unavailing. He himself was suspended from his functions, and died in deep disgrace. The Prophecyings were put down, and all hope

and is suspended.

CH. III. of bringing the waters of that free Protestantism, which was rapidly becoming the belief of so many thoughtful Englishmen, to flow within the channels of Episcopacy was, for the present, at an end.

The House of Commons takes part in the controversy.

In 1571, shortly before the commencement of the Prophesyings, the House of Commons stepped into the arena. Twelve years had done much to change the feelings of the laity. Old men had dropped into the grave, and it was to the aged especially that Protestantism had been found distasteful. The country gentlemen, of whom the House was almost entirely composed, if they adopted Protestant opinions at all, could hardly find any living belief in England other than Calvinism, which was accepted by the ablest and most active amongst the clergy. The Queen's regulations were, after all, a mere lifeless body, into which the spirit of religious faith had yet to be breathed. The struggle against Rome, too, was daily assuming the proportions of a national conflict. Men, who in ordinary times would have taken little interest in the dislike of some of the clergy to use certain forms, were ready to show them favour when they were declaiming against the adoption of the rags of an anti-national Church. Nor was the growing feeling of dissatisfaction, with the restraint put upon personal liberty by the Government, adverse to the claims of the ministers as long as they were on the persecuted side; although the same feeling would have undoubtedly manifested itself on the side of the Crown, if Cartwright had ever succeeded in putting the Presbyterian system into operation.

Bills were accordingly brought in for amending the Prayer Book, and for retrenching in some degree the administrative powers of the Archbishop of Canterbury. But the most remarkable monument of the temper of the House was an Act,\* which was often appealed to in later times, in which confirmation was given to the Thirty-nine Articles. It was enacted that all ministers should be compelled to subscribe to those articles only which concerned the Christian faith and the doctrine of the

\* 13 Eliz. cap. 12.

Sacraments. By the insertion of the word 'only,' the House of Commons meant it to be understood that no signature was to be required to the Articles which related to points of discipline and Church government. CH. III.

Thus a breach was opened between the two greatest powers known to the constitution, never to be again closed till the monarchy had itself disappeared for a time in the waters of the conflict. The English Reformation was, as has been said, the work of the laity of England, headed by the Sovereign. The House of Commons now threatened to go one way, while the Queen was determined to go another. No doubt, the proposals of the Lower House could not always have been accepted without some modifications. There were portions of society which found a truer representation in the House of Lords than amongst the Commons. If the liberty which the Commons required for the clergy had been granted, it would have been necessary to devise new guarantees, in order that the incumbent of a parish should not abuse his position by performing the duties of his office in such a manner as to offend his parishioners. In proportion as the checks imposed by the Government were diminished, it would have been necessary to devise fresh checks, to proceed from the congregation, whilst the Government retained in its hands that general supervision which would effectually hinder the oppression of individuals by a minister supported by a majority of his parishioners.

With a little moderation on both sides, such a scheme might easily have been resolved upon. But it was not so to be. Elizabeth has a thousand titles to our gratitude, but it should never be forgotten that she left, as a legacy to her successor, an ecclesiastical system which, unless its downward course were arrested by consummate wisdom, threatened to divide the nation into two hostile camps, and to leave England, even after necessity had compelled the rivals to accept conditions of peace, a prey to theological rancour and sectarian hatred.

Matters could not long remain as they were; unless the Queen was prepared to make concessions, she must, of necessity, have recourse to sterner measures. On the

Breach  
between  
the Crown  
and the  
Commons  
on the ec-  
clesiastical  
question.

Evil con-  
sequences  
of Eliza-  
beth's  
determina-  
tion.

## CH. III.

She appoints  
Whitgift  
as Grindal's  
successor.

death of Grindal, in 1583, she looked about for a successor who would unflinchingly carry her views into execution. Such a man she found in John Whitgift, the old opponent of Cartwright. Honest and well-intentioned, but narrow-minded to an almost incredible degree, the one thought which filled his mind was the hope of bringing the ministers of the Church of England at least to an outward uniformity. He was unable to comprehend the scruples felt by sincere and pious men. A stop was to be put to the irregularities which prevailed, not because they were inconsistent with sound doctrine, or with the practical usefulness of the Church, but because they were disorderly. He aimed at making the Church of England a rival to the Church of Rome, distinct in her faith, but equalling her in obedience to authority, and in uniformity of worship.

Formation  
of the  
High Commission  
Court.

In order to carry these views into execution, the machinery of the Court of High Commission was called into existence. Several temporary commissions had, at various times, been appointed by virtue of the Act of Supremacy, but these powers were all limited in comparison with those assigned to the permanent tribunal which was now to be erected. The Parliament which had, four and twenty years before, passed the Act under which the Court claimed to sit, would have shrunk back with horror if they had foreseen the use which was to be made of the powers entrusted by them to the Queen for a very different purpose; and, since the accession of Elizabeth, opinion had undergone considerable changes, in a direction adverse to the principles which were upheld by the new Archbishop.

The Commission consisted of forty-four persons, of whom twelve were to be Bishops. Its powers were enormous, and united both those forms of oppression which were repulsive to all moderate Englishmen. It managed to combine the arbitrary tendencies by which the lay courts were at that time infected with the inquisitorial character of an ecclesiastical tribunal. The new Court succeeded in loading itself with the burden of the dislike which was felt against oppression in either form. It was greeted with a shout of execration from



all sides. It had enough in it of the clerical element to be extremely oppressive to the laity. It had enough in it of the lay element to be extremely oppressive to the clergy. In two points alone it was distinguished from the Inquisition of Southern Europe. It was incompetent to inflict the punishment of death, and it was not permitted to extract confessions by means of physical torture.

CH. III.

Still, as the case stood, it was bad enough. The Court was empowered to inquire into all offences against the Acts of Parliament, by which the existing ecclesiastical system had been established; to punish persons absenting themselves from church; to reform all errors, heresies, and schisms which might lawfully be reformed according to the laws of the realm; to deprive all beneficed clergy who held opinions contrary to the doctrinal articles, and to punish all incests, adulteries, fornications, outrages, misbehaviours, and disorders in marriage, and all grievous offences punishable by the ecclesiastical laws.

Powers of  
the Court.

The means which were at the disposal of the Commission, for the purpose of arriving at the facts of a case, were even more contrary to the spirit of English law than the extent of its powers. It was, in theory, a principle of our law that no man was bound to accuse himself, it being the business of the Court to prove him guilty, if it could; and, although in practice this great principle was really disregarded, especially in cases where the interests of the country or of the Government were at stake, the remembrance of it was certain to revive as soon as it was disregarded by an unpopular tribunal. The Commission, drawing its maxims from the civil and canon law, conducted its proceedings on a totally opposite principle. Its object was to bring to punishment those who were guilty of disobedience to the laws, either in reality, or according to the opinion of the Court. In the same spirit as that by which the ordinary judges were actuated in political cases, the framers of the regulations of the new Court thought more of bringing the guilty to punishment than of saving the innocent. But whilst the judges were forced to content

Means of  
obtaining  
evidence.

CH. III. themselves with straining existing forms against unpopular delinquents, the Commission, as a new tribunal, was authorised to settle new forms, in order to bring within their power men who enjoyed the sympathies of their countrymen.

It would have been almost impossible to have constituted an English court without assigning to it the power of arriving at the truth by the ordinary mode, 'the oaths of twelve good and lawful men.' But, homage having been thus done to this time-honoured institution, the Commission proceeded to direct that recourse might be had to witnesses alone, and even that conviction might be obtained by 'all other ways and means' which could be devised.

The meaning of this vague clause was soon evident to all. The Court began to make use of a method of extracting information from unwilling witnesses, which was known as the *ex-officio* oath. It was an oath tendered to an accused person, that he would give true answers to such questions as might be put to him. He was forced not only to accuse himself, but he was liable to bring into trouble his friends, concerning whom the Court was as yet possessed of no certain information.

Articles drawn up to be presented to all suspected clergy-men.

The Archbishop, having thus arranged the constitution of his Court, drew up twenty-four interrogatories of the most inquisitorial description, which he intended to present to all suspected persons among the clergy. They were not confined to inquiries into the public proceedings of the accused, but reached even to his private conversation. If the unhappy man refused to take the oath, he was at once deprived of his benefice, and committed to prison for contempt of the Court.

The clergy appeal to the Privy Council.

The unfortunate clergy appealed to the Privy Council. Whitgift was unable to find a single statesman who approved of his proceedings. Burghley, with all the indignation of which his calm and equable temperament was capable, remonstrated against the tyranny of which the Archbishop was guilty. He told him that his own wishes were in favour of maintaining the peace of the Church, but that these proceedings savoured too much of the Romish Inquisition, and were 'rather a device to

seek for offenders than to reform any.' But Burghley's remonstrances were in vain. Whitgift was not the man to give way when he had once decided upon his course, and unhappily he received the thorough and steady support of Elizabeth. When even these harsh measures failed to effect their object, recourse was had to the ordinary tribunals, and men were actually sent to execution for writing libels against the Bishops, on the plea that any attack upon the Bishops was an instigation to sedition against the Queen.

CH. III.

It is remarkable that, at the very time when these atrocities were at their worst, the House of Commons, which had never let slip an opportunity of protesting against the ecclesiastical measures of the Queen, began to grow cool in its defence of the Puritans. This may be attributed in part to the great popularity which Elizabeth enjoyed in consequence of the defeat of the Armada, but still more to the license which the authors of a series of Puritan libels allowed themselves.

The mar-  
prelate  
libels.

Moderate men who were startled by these excesses, were still more disgusted by the spread of what were at that time known as Brownist opinions, from the name of Robert Brown, from whom they had first proceeded. His principles were very much those which were afterwards held by the Independents. His followers considered that every Christian congregation was in itself a complete church, and they denied that either the civil government, or any assembly of clergy, possessed the right of controlling it in its liberty of action. No other body of men had so clear an idea of the spiritual nature of religion, and of the evils which resulted from the dependence of the Church upon the State. Far from being content, like the Nonconformists, with demanding either a reformation of the Church, or a relaxation of its laws, the Brownists were ready to abandon the Church to its fate, and to establish themselves in complete independence of all constituted authorities. If they had stopped here, they would have been unpopular enough. But some of them, at least, goaded by the persecution to which they were exposed, went to far greater lengths than this. Holding that ministers ought

Spread of  
Brownist  
opinions.

## CH. III.

to be supported by the voluntary contributions of the people, they too declared that the whole national Church was anti-christian, and that to remain in its communion for an instant was to be guilty of a sin of no common magnitude. From this they proceeded to still more offensive declarations. Whilst disclaiming all wish to take the law into their own hands, they called upon the Queen to 'forbid and exterminate all other religions, worship, and ministries within her dominions.'<sup>78</sup> She ought further, as they said, to seize all the property of the Church, from the wide domain of the Bishop down to the glebe land of the incumbent of a country parish.

Reaction  
in favour of  
the Church  
system.

Terrified by these opinions, the Presbyterian Cartwright wrote in denunciation of their wickedness. Parliament allowed itself, in 1593, for the first time since the accession of Elizabeth, to pass a statute against Protestants of any kind.

The latter years of Elizabeth were quieter than the storms which followed upon the appointment of the High Commission had indicated. Perhaps the sweep which had been made from amongst the clergy had left a smaller number of persons upon whom the Court could exercise its authority; perhaps, also, the dissatisfied, certain that there was no hope of any change of system as long as Elizabeth lived, reserved themselves for the reign of her successor. Such causes, however, whatever their effect may have been, were not in themselves of sufficient importance to account for the undoubted reaction against Puritanism which marked the end of the sixteenth century.

Causes of  
this reac-  
tion.

As, one by one, the men who had sustained the Queen at her accession dropped into the grave, a generation arose which, excepting in books of controversy, knew nothing of any religion which differed from that of the Church of England. The ceremonies and vestments which, in the time of their fathers, had been exposed to such bitter attacks, were to them hallowed as having been entwined with their earliest associations. It required a strong effort of the imagina-

\* H. Barrow's *Platform*.

tion to connect them with the forms of a departed system which they had never witnessed with their eyes; but they remembered that those ceremonies had been used, and those vestments had been worn, by the clergy who had led their prayers during those anxious days when the Armada, yet unconquered, was hovering round the coast, and who had, in their name, and in the name of all true Englishmen, offered the thanksgiving which ascended to heaven after the great victory had been won. By many of them these forms were received with pleasure for their own sake. In every age, there will be a large class of minds to whom Puritanism is distasteful, not merely because of the restraint which it puts upon the conduct, but because it refuses to take account of a large part of human nature. Directing all its energies against the materialism which followed the breaking up of the medieval system, it forgot to give due weight to the influences which affect the spiritual nature of man through his bodily senses. Those, therefore, to whom comely forms and decent order were attractive, gathered round the institutions which had been established in the Church under the auspices of Elizabeth. In the place of her first Bishops, who were content to admit these institutions as a matter of necessity, a body of prelates grew up, who were ready to defend them for their own sake, and who believed that at least in their main features they were framed in accordance with the will of God. Amongst the laity, too, these opinions met with considerable support. They found expression in the great work of Hooker, from which, in turn, they received no small encouragement.

But whilst the gradual rise of these sentiments reduced the Presbyterians to despair, it soon became plain that the Episcopal party was not of one mind with respect to the course which should be pursued towards the Nonconformists. Hooker, indeed, had maintained that the disputed points being matters which were not ordained by any immutable Divine ordinance, were subject to change from time to time, according to the circumstances of the Church. For the time being, these

Hooker's  
'Ecclesiastical  
Polity.'

CH. III. questions had been settled by the law of the Church of England, to which the Queen, as the head and representative of the nation, had given her assent. With this settlement he was perfectly content, and he advised his opponents to submit to the law which had been thus laid down. Upon looking closely, however, into Hooker's great work, it becomes evident that his conclusions are based upon two distinct arguments, which, although they were blended together in his own mind at some sacrifice of logical precision, were not likely in future to find favour at the same time with any one class of reasoners. When he argues from Scripture, and from the practice of the early Church, the as yet undeveloped features of Bancroft and Laud are plainly to be discerned. When he proclaims the supremacy of law, and weighs the pretensions of the Puritans in the scales of reason, he shows a mind the thoughts of which are cast in the same mould with those of that great school of thinkers of whom Bacon is the acknowledged head. Hooker's greatness indeed, like the greatness of all those by whom England was ennobled in the Elizabethan age, consisted rather in the entireness of his nature than in the thoroughness with which his particular investigations were carried out. He sees instinctively the unity of truth, and cannot fail to represent it as a living whole. It is this which has made him, far more than others who were his superiors in consistency of thought, to be regarded as the representative man of the Church of England. The work which had to be done by the generation which came after him was work which he could not do. Truth was to be divided, in order that each portion of it might be more thoroughly mastered. Men were to arise, who in clearness of conception and in logical precision surpassed the great Elizabethan writer as far as the political theories of Pym or Somers surpassed those of the Elizabethan statesmen. What they want is the manysidedness of life. The work which they are doing wanted the attractiveness which Hooker's work has; and yet it is the difference of progress, not of decline. They are polishing and perfecting the truths which have fallen to their share, as workmen who have taken to

pieces a complicated machine occupy themselves with the fragments, not in order that they may stand alone, but in order that in due time they may form parts of a renovated and reunited whole.

CH. III.

It soon appeared that the desire to hold a middle course between the rival ecclesiastical parties was not confined to a few advanced thinkers. There was a large and increasing number of the laity who regarded the problem in Hooker's spirit, though they were dissatisfied with his solution of it. Even men who themselves admired the forms of worship prescribed by the Church, and who felt all Hooker's dislike of Presbyterianism, nevertheless, without any very deep reasoning, came to a precisely opposite conclusion. They were not yet the partisans that their children came to be, and they were more anxious to preserve the unity of the English Church than the forms which were rapidly making that unity impossible. If these ceremonies were only imposed by the law of the land for the sake of uniformity, without its being pretended that they were otherwise than of merely human origin, ought not that law to be relaxed? Everywhere there was a cry for preachers. Whilst Bishops and Ministers were wrangling about points of mere detail, thousands of their fellow-countrymen were living like heathens. It was to be regretted that so many of those who were capable of preaching should be so scrupulous about matters of little consequence; but was it necessary, on account of these scruples, to disturb the peace of the Church by the expulsion of those who felt them? Was it well that faithful and pious men who preached the same doctrine as that which was held by their conforming brethren, and whose lives gave at least as good an example as that of any Bishop in England, should be cut short in their career of usefulness merely in order that the clergyman who officiated in one parish might not scandalise the sticklers for uniformity by wearing a surplice, whilst the clergyman who officiated in the next parish wore a gown?

Growing feeling in favour of toleration.

When such feelings as these prevailed, it was plain that Elizabeth's ecclesiastical system was doomed. She

The Elizabethan system is doomed.

CH. III. had laid it athwart the current of the social movement which was everywhere pressing against the retention of extraordinary powers by the Government, and it was only a question of time when the whole edifice would be swept away. The greatest wisdom on the part of the Bishops, the greatest ability on the part of the Sovereign who was to succeed, could only have postponed, without averting, the impending change. But it does not follow that the character of James was unimportant in the crisis which was at hand. It is true, that no personal worth and ability on the part of a ruler can alter the direction in which the tide of a great social movement is running, any more than any configuration of mountain form can compel the stream which trickles from the snow to take an upward course. But, on the other hand, he is able to affect the whole future history of that movement as certainly as a little ledge of rock on the top of the mountain may turn the course of the stream to the north or to the south. If James had been possessed of all the vigour of Henry VIII. combined with the sagacity of Elizabeth, he could not have induced the English nation to submit without a murmur to the proceedings of the Court of High Commission. But, irresistible as the movement was, he might have guided it. By maintaining the great principle of the national Reformation, and by steadily refusing to allow any coercive jurisdiction to be exercised by priest or presbyter upon English soil, excepting with the sanction and under the authority of the Crown, he might have occupied a vantage ground from whence he might gradually have relaxed the bonds which that authority had laid upon the clergy. In such a work as this the ablest Sovereign might find ample room for the exercise of political wisdom. Never had a fairer opportunity been offered for composing the differences of the Church. The leading Puritans were prepared to withdraw their extreme demands, and the great bulk of the laity were ready to support the Crown in resistance to any violent proposals. The great mind of Bacon was ready to draw up the terms upon which an agreement was possible, and it was certain that his

What  
James  
might have  
done.



views would find support in the House of Commons. If the golden opportunity were let slip, it might never again present itself. It is not too much to say, that it depended upon James alone to decide whether that liberty which must eventually find its way into the ecclesiastical system was to enter with peace and charity in its train, or whether it was only to be attained after long years of civil strife.

Unfortunately, the smallness of James's mind rendered him pre-eminently unfit for the part which he was called upon to play. Nor was his experience of Scottish government favourable to the developement of a calm judgment on these important questions. It is not probable that any man could have lived long at that time as King of Scotland without coming into collision with the clergy. They laid claim to rights and privileges which every Sovereign must have felt himself instinctively impelled to reject, and they interfered even with the most innocent pleasures in a manner which would have irritated a man whose powers of self-control were far greater than those possessed by James. But to deal with the difficulties which were before him required a wiser and more temperate head than his. No man can hope to be successful in correcting the abuses which attend the predominance of such men as were those who composed the Scottish clergy, unless he can thoroughly sympathise with all that is good and noble in them. From their pulpits had proceeded that progress in religion and morality which in the course of half a century had done so much to change the face of Scotland. All elevation of thought, all truth and earnestness of life in the land, had sprung up around these preachers of the Gospel. Power had come into their hands, as power ever will come into such hands as theirs. To check them in the abuse of it, to surround it with just and beneficial safeguards, was the bounden duty of the Sovereign. But in James's hands what might have been a great policy degenerated into a personal struggle. He could quote texts and argue learnedly about the duty of the clergy to submit to those in authority, but his words found no enduring response in the hearts of

Сж. III.  
1603.

James unfitted to deal with the question.

CH. III. the people, because there was nothing in his government  
1603, which made them any better or happier than they were  
before.

Not that James cared for most of the points at issue between the English and the Scottish Churches. What he asked for was submission to the royal authority, and that the clergy should keep within what he considered to be their proper bounds. Whether that submission were rendered by men who wore surplices, or by men who wore gowns, was to him a matter of indifference, until he came to connect the forms of the English Church with the submissive bearing of its ministers. In the same way he took little interest, for its own sake, in the discussion on the best form of Church government. If he could have obtained obedience from a Presbyterian clergy, he would never have troubled himself with attempting to introduce Bishops into Scotland.

Influence  
of the  
King's  
Scottish  
experience  
upon his  
proceed-  
ings in  
England.

From the midst of this struggle he was summoned to the throne of England, where he was called to decide upon questions apparently similar to those which had so long troubled his repose in Scotland. Ignorant of the circumstances which made the condition of the one kingdom so different from that of the other, he was naturally led to treat the same difficulties in a precisely similar manner. A wiser man would have seen that the evils of the two countries demanded very different remedies. In Scotland the exorbitant power of the ministers required repression by a firm but reverent hand. In England it was the authority of the Crown which had grown beyond its due limits, and it was the liberty of the clergy which needed to be increased. If the new King had known that there was no reason to fear that the Puritan clergy would receive support from the laity in anything but the most moderate demands, he might possibly have acted in a more conciliatory spirit. But with the voice of the Scottish preachers still ringing in his ears, and in unavoidable ignorance of the strong feeling which would be sure to animate the English laity against anything approaching to clerical domination, he was easily frightened into taking the

only course which could really make Protestantism dangerous to the royal authority. CH. III.  
1603.

As soon as Elizabeth's death was known, Nevill, the Dean of Canterbury, was despatched to Edinburgh by Whitgift in order to make himself acquainted with the sentiments of the new King, and was gladdened by the assurance that James had no intention of establishing Presbyterianism in England. Nevill sent  
to Edin-  
burgh.

On his progress towards London, James was called upon to listen to an address of a very different nature. A petition,\* strongly supported by the Puritan clergy, was presented to him, in which their wishes were set forth. The Mil-  
lenary  
Petition.

The alterations which they demanded in the services of the Church were founded upon the ordinary Puritan objections. In the Baptismal Service interrogations were no longer to be addressed to infants; nor was the sign of the cross to be used. The rite of Confirmation was to be discontinued. It had been the practice for nurses and other women to administer Baptism to newly-born infants in danger of death. This custom was to be forbidden. The cap and surplice were not to be 'urged.' Persons presenting themselves for Communion were to undergo a previous examination, and the Communion was always to be preceded by a sermon. 'The divers terms of priests and absolution, and some other used,' were to be 'corrected.' The ring was no longer to enter into the marriage service, although it might be retained in private use as a token given by the husband to his wife.† The length of the services Proposed  
changes  
in the  
Prayer-  
Book.

\* Commonly called the Millenary Petition, because it purported to proceed from 'more than a thousand ministers.' It was said by Fuller (*Ch. Hist.* v. 265), and it has often been repeated, that only seven hundred and fifty preachers' hands were set thereto. The fact seems to have been that there were no signatures at all to it. The petitioners, in a Defence of their petition, presented later in the year (Add. MS. 8978) distinctly say, 'Neither before were any hands required to it, but only consent.' They probably received only seven hundred and fifty letters of assent, and left the original words standing, either accidentally or as believing that the sentiments of at least two hundred and fifty out of those who had not come forward were represented in the petition.

† This explanation is adopted from the Defence before mentioned. (fol. 36 b.)

CH. III.

1603.

was to be abridged, and church music was to be plainer and simpler than it had hitherto been. The Lord's day was not to be profaned, and, on the other hand, the people were not to be compelled to abstain from labour on holydays. Uniformity of doctrine was to be prescribed, in order that all popish opinions might be condemned. Ministers were not to teach the people to bow at the name of Jesus; and, finally, the Apocrypha was to be excluded from the calendar of the lessons to be read in church.

These demands could not, of course, be granted as they stood. If the clergy alone were to be consulted, a large number would be found among them who would view these matters with very different eyes. The great mass of the laity, especially in country parishes, would be equally averse to the change.\* Any attempt to enforce the alterations demanded would have stirred up opposition from one end of the country to the other. The difficulties were enormous, even if the Bishops had been inclined to look them fairly in the face. Still something might have been done if they had been animated by a conciliatory spirit. By a little fair dealing, the peace of the Church would have been preserved far better than by any rigid enactments. That a very different spirit prevailed can cause us no astonishment. To the Elizabethan party some of the proposed changes seemed to be absolutely injurious, whilst others were only necessary in order to meet scruples which appeared to them to be childish and absurd.

The remainder of the petition was occupied by requests, the greater part of which deserved the serious consideration of all parties. The petitioners hoped that none would hereafter be admitted to the ministry who

\* In *An Abridgement of that Book which the Ministers of Lincoln Diocese delivered to His Majesty*, 1605, p. 39, it is urged, in favour of abolishing the ceremonies, that 'many of the people in all parts of the land are known to be of this mind, that the sacraments are not rightly and sufficiently ministered without them.' The conclusion drawn was that such ceremonies ought not to be allowed to exist to the detriment of those who placed an idolatrous value upon them.

were unable to preach; that those who were already admitted should be compelled to maintain preachers; and that a check should be put to the abuse of non-residence. It was asked that ministers should not be required to testify by their subscription to the whole of the substance of the Prayer Book, but that it should be sufficient if they subscribed to the Articles and to the King's Supremacy. With respect to the maintenance of the clergy, the petitioners suggested that the impropriations annexed to bishoprics and colleges should hereafter be let only to those incumbents of livings who were able to preach, and who were at no future time to be called upon to pay any higher rent than that which was demanded at the time when the lease was first granted. Improvements held by laymen might be charged with a sixth or seventh part of their worth for the maintenance of a preaching ministry. They also asked for reforms in the ecclesiastical courts, especially that excommunication should not be pronounced by lay Chancellors and officials, and that persons might not be 'excommunicated for trifles and twelvepenny matters.'\*

CH. III.

1603.

Proposed reforms in the discipline of the Church.

The spirit in which this petition was met was not such as to give any hopes of a peaceable solution of the difficulty. The Universities were the first to sound the alarm. Cambridge passed a grace to the effect that all persons were forbidden to find fault publicly within the University with the doctrine or discipline of the Church of England, or with any part of it, either by word or writing, upon pain of being suspended from their degrees. Oxford came forward with an answer to the petition.† If the Universities could have won their cause by scolding, the Puritans would have been crushed for ever. They were accused by the Oxford doctors of factious conduct in daring to disturb the King with their complaints. They were told that they were men of the same kind as those who had so often stirred up

Answer by the University of Oxford.

\* Collier, vii. 267.

† *The Answer of the Vice-Chancellor, the Doctors, with the Proctors and other Heads of Houses in the University of Oxford, &c., 1603.* The Cambridge Grace is quoted in the epistle dedicatory. The defence before mentioned is a reply to the Oxford answer, and is written in a very different tone.

CH. III. treason and sedition in Scotland, and that as for their  
 1603. eagerness to preach, it would have been a happy thing if the Church of England had never heard anything of their factious sermons or of their scurrilous pamphlets.

Their demands were treated with that cool insolence which scarcely deigns to argue with an opponent, and which never attempts to understand his case. It was taken for granted that no concessions could be made by the King unless he were prepared for the establishment of Presbyterianism, and it was argued that the hearts of the people would be stolen away from their Sovereign by preachers who would be sure to teach them that the King's 'meek and humble clergy have power to bind their King in chains, and their Prince in links of iron, that is (in their learning) to censure him, to enjoin him penance, to excommunicate him; yea (in case they see cause) to proceed against him as a tyrant.'

James proposes that the Universities shall support preaching ministers.

In the beginning of July, James astonished the Universities by recommending them to adopt one of the proposals of the petitioners. He informed them that he intended to devote to the maintenance of preaching ministers such inappropriate tithes as he was able to set aside for the purpose, and that he hoped that they would follow his example.\* Whitgift immediately took alarm and drew up a statement for the King of the inconveniences which were likely to result.† It need hardly be said that nothing more was heard of the matter. The Universities were left in peace, and the King never found himself in a condition to lay aside money for any purpose whatever.

Another step had already been taken, which shows that James had felt the weight of the latter part of the petition. On the 12th of May, a circular was sent round by Whitgift to the Bishops, demanding an account of the number of preachers in their respective dioceses. This was followed about six weeks later by another letter, requiring still more particular information.‡

\* King to Chancellors of the Universities, Wilkins' *Conc.* iv. 369. King to Heads of Houses, *S. P. Dom.* ii. 38.

† Whitgift to King, *S. P. Dom.* ii. 39.

‡ Wilkins' *Conc.* iv. 368.

They were to report as soon as possible on the number of communicants and of recusants in every parish. They were also to give a number of particulars respecting the clergy sufficiently minute to serve as a basis for any course which might be taken to remedy the evils complained of.

CH. III.  
1604.

During the course of the summer, the Puritans attempted to support their views by obtaining signatures to petitions circulated among the laity.\* A proclamation was issued in consequence, commanding all persons to abstain from taking part in such demonstrations, and giving assurance that the King would not allow the existing ecclesiastical constitution to be tampered with, though at the same time he was ready to correct abuses. In order to obtain further information on the points in dispute, he had determined that a conference should be held in his presence between certain learned men of both parties. No one could be more ready than he was to introduce amendments wherever the existence of real evils could be proved.†

James probably believed this to be a true description of himself. No man ever more thoroughly combined a theoretical desire for reform with a perfect incompetence to deal practically with abuses.

After several postponements, the antagonists met at Hampton Court on the 14th of January. On the one side were summoned the Archbishop of Canterbury, eight Bishops, seven Deans, and two other clergymen. The other party were represented by Reynolds, Chader-ton, Sparks, and Knewstubs. These four men had been selected by the King, and he could not have made a better choice, or one which would have given more satisfaction to the moderate Puritans. The proceedings of the first day did not augur well for the success of the Puritan cause. Its champions were not admitted to the discussions which were carried on between the King and the Bishops in the presence of the Lords of the

The conference meets.

The first day's proceedings.

The Puritans excluded.

\* Whitgift and Bancroft to Cecil, Sept. 24, 1603, *S. P. Dom.* iii. 83, and Fuller v. 311.

† Wilkins' *Conc.* iv. 371.

CH. III. Council. James was engaged in settling with the  
 1604. Bishops the extent of the changes to which he would agree, and, unfairly enough, postponed hearing the complainants until he had made up his mind. As might have been expected, these changes were of no great importance, and were by no means likely to give satisfaction to the malcontents. The objections which he brought before the Bishops, and the arguments by which they were supported, were almost entirely taken from a tract\* written by Bacon in the hopes of influencing his mind towards larger principles of reform. What was of little consequence James accepted; what was of paramount importance he passed by as though he had never heard of it. To Puritanism itself the character of Bacon was decidedly opposed. He disliked the narrowness of mind which he perceived amongst that party, and he had little sympathy with the highest parts of their teaching. But he had faith in concession, and in the mutual goodwill which was sure to follow; and he remembered, what should never have been forgotten, that 'the silencing of ministers' was, in the scarcity of good preachers, 'a punishment that' lighted 'upon the people as well as upon the party.'

On the second day the complainants are heard.

On the second day the case of the complainants was heard. Reynolds commenced by urging the propriety of altering some points in the Articles, and proposed to introduce into them that unlucky formulary which is known by the name of the Lambeth Articles, by which Whitgift had hoped to bind the Church of England to the narrowest and most repulsive form of Calvinistic doctrine, and thus to undo the work of Elizabeth, who had wisely stifled it in its birth. Reynolds then proceeded to demand that the grounds upon which the rite of Confirmation rested should be reviewed. This was more than Bancroft could bear. He was at this time Bishop of London, and was generally regarded as the man who was to succeed Whitgift as the champion of the existing system. He even went beyond the Archbishop, having publicly declared his belief that the

\* *Of the Pacification of the Church.*



Episcopal constitution of the Church was of Divine institution. In defending the cause entrusted to him, he overstepped all the bounds of decency. Interrupting the speaker, he knelt down before the King and requested 'that the ancient canon might be remembered,' which directed that schismatics were not to be listened to when they were speaking against their Bishops. If there were any there who had ever subscribed to the Communion Book, he hoped that a hearing would now be refused to them, as an ancient Council had once determined 'that no man should be admitted to speak against that whereunto he had formerly subscribed.' He then proceeded to hint that in being allowed to speak at all, Reynolds and his companions had been permitted to break the statute by which penalties were imposed on all persons depraving the Book of Common Prayer. He concluded by quoting a passage from Cartwright's works to the effect that men ought rather to conform themselves 'in orders and ceremonies to the fashion of the Turks, than to the Papists, which position he doubted they approved, because, contrary to the orders of the Universities, they appeared before his Majesty in Turkey gowns, not in their scholastic habits sorting to their degrees.'

CH. III.  
1804.

Bancroft's  
interrup-  
tion

The insolent vulgarity of this specimen of episcopal wit was too much even for James. Although he fully agreed with Bancroft in his dislike of Reynolds' arguments, he could not but find fault with him for his unseasonable interruption. The two parties then proceeded to discuss the disputed points as far as they related to questions of doctrine. On the whole, James showed to great advantage in this part of the conference. He had paid considerable attention to matters of this kind, and the shrewd common sense which he generally had at command, when he had no personal question to deal with, raised him above the contending parties. On the one hand, he refused to bind the Church, at Reynolds' request, to the Lambeth Articles; on the other, in spite of Bancroft's objections, he accepted Reynolds' proposal for an improved translation of the Bible.

reproved  
by James.

The question of providing a learned ministry was then brought forward, and promises were given that attention

CH. III.  
1604.

should be paid to the subject. The Bishop of Winchester complained of the bad appointments made by lay patrons. Bancroft, who treated the whole subject as a mere party question, took the opportunity of inveighing against the preachers of the Puritan school, who were, as he said, accustomed to show their disrespect of the Liturgy, by walking up and down 'in the church-yard till sermon time, rather than be present at public prayer.' The King answered, that a preaching ministry was undoubtedly to be preferred; but that 'where it might not be had, godly prayers and exhortations did much good. That that may be done, let it, and let the rest that can not, be tolerated.'

The King's  
position  
between  
the two  
parties.

The remaining points of the petition were then brought under discussion. Unless the Puritans have been much misrepresented,\* their inferiority in breadth of view is conspicuous. If James had been merely presiding over a scholastic disputation, his success would have been complete. But, unfortunately, there were arguments which he could not hear from any who were before him. He was not called upon to decide whether it was proper that the ring should be used in marriage, and the cross in baptism. What he was called upon to decide was whether, without taking into consideration the value of the opinions held by either party, those opinions were of sufficient importance to make it necessary to close the mouths of earnest and pious preachers. Excepting by Bacon, this question was never fairly put before him. The Puritans wished that their views should be carried out in all parts of England,† and when they were driven

\* With the exception of a letter of Matthews printed in Strype's *Whig'st*, App. xlv. and of Galloway's in *Caldewood*, vi. 241, and another of Montagu's to his mother, *Wm.* ii. 13, our only authority is Barlow's *Sum of the Conference*. He has been charged with misrepresentation, and he evidently did injustice to the Puritan arguments which were distasteful to him, and which he did not understand. But if he had introduced any actual misrepresentation, we should certainly have had a more correct account from the other side. After all, if the arguments of the Puritans have been weakened, it is scarcely possible to find elsewhere stronger proofs of Bancroft's deficiencies in temper and character.

† The clause in the petition which relates to the cap and surplice is the only one which seems to ask for permission to deviate from an established order, instead of demanding a change of the order.

from this ground they could only ask that respect should be paid to the consciences of the weak, a plea which did not come with a good grace from men who had been anxious to bind the whole body of the English clergy in the fetters of the Lambeth Articles.\*

The debate, which had gone on with tolerable fairness since Bancroft's interruption, received another turn, from a proposal made by Reynolds, that the Prophesyings should be restored. The restoration of these meetings had been deliberately recommended by Bacon, as the best means for training men for the delivery of sermons. It is doubtful whether James could have been brought to allow them under any circumstances, but Reynolds did not give his proposal a fair chance. He coupled it with a suggestion, that all disputed points which might arise during the Prophesyings should be referred to the Bishop with his Presbyters. At the word Presbyters James fired up. He saw they were aiming 'at a Scottish Presbytery, which,' he said, 'agreeth as well with a monarchy as God and the devil. Then Jack and Tom, and Will and Dick, shall meet, and at their pleasures censure me and my Council, and all our proceedings. Then Will shall stand up, and say, it must be thus; then Dick shall reply, and say, nay, marry, but we will have it thus. And, therefore, here I must reiterate my former speech, *le Roi s'avisera*. Stay, I pray you, for one seven years, before you demand that from me, and if then you find me pursy and fat, and my windpipes stuffed, I will perhaps hearken to you; for let that government be once up, I am sure I shall be kept in breath; then shall we all of us have work enough, both our hands full. But, Doctor Reynolds, until you find that I grow lazy, let that alone.'

CH. III.  
1604.

His anger  
at the men-  
tion of the  
word  
'Pre-  
byter.'

From his own point of view James was right. Liberty brings with it many advantages, but it certainly does not

\* The King's reply is crushing, merely regarded as an argumentum ad hominem. He asked, 'how long they would be weak? Whether forty-five years were not sufficient for them to grow strong? Who they were that pretended this weakness, for we require not now subscription from laics and idiots, but preachers and ministers, who are not now I trow to be fed with milk, but are enabled to feed others.'

CH. III.  
1604.

tend to enable men in office to lead an easy life. Yet natural as it must have seemed to him to give such an answer as this, in two minutes he had sealed his own fate and the fate of England for ever. The trial had come, and he had broken down. He was called upon to decide one of the greatest questions which has ever been brought before a Sovereign, and he only asked in what way he could best secure his personal ease and the maintenance of his authority. The essential littleness of the man was at once revealed. More and more the maxim, 'No Bishop, no King,' became the rule of his conduct. The doctrines and practices of the Bishops became connected in his mind with the preservation of his own power. He was gratified by their submissiveness, and he looked upon the views of the opposite party as necessarily associated with rebellion.

At the moment, the self-satisfaction of the controversialist predominated even over the feelings of the monarch. 'If this be all they have to say,' he observed, as he left the room, 'I shall make them conform themselves, or I will harry them out of the land, or else do worse.'

The impression produced upon the bystanders was very different from that which later generations have received. One who was present said, that 'His Majesty spoke by inspiration of the Spirit of God.\*' Cecil thanked God for having given the King an understanding heart. Ellesmere declared that he never before understood the meaning of the legal maxim that *Rex est mixta persona cum sacerdote*. It is usual to ascribe these and similar expressions to the courtier-like facility of giving utterance to flattery. In so doing, we forget that these men were fully persuaded that James was doing right in resisting the demands of the Puritans, and that men are very ready to forget the intemperate form in which an opinion may be clothed, when the substance is according to their mind.

\* Barlow ascribes this speech to one of the Lords. Sir J. Harington, who was also present, assigns it to a Bishop. At the next meeting Whitgift repeated it.

Two days later, the King again met the Bishops, and agreed with them upon the small alterations which were to be made in the Prayer Book. It was also determined that Commissions should be appointed for inquiring into the best mode of obtaining a preaching clergy. The Puritans were then called in, and were informed that, with a few exceptions,\* the practices which they had objected to would be maintained, and that subscription would be enforced to the whole of the Prayer Book, as well as to the Articles and to the King's Supremacy. Chaderton begged that an exception might be made in favour of the Lancashire clergy, who had been diligent in converting recusants. The King replied that as he had no intention of hurrying anyone, time would be given to all to consider their position; letters should be written to the Bishop of Chester, ordering him to grant a sufficient time to these men. A similar request, however, which was made on behalf of the Suffolk clergy, was refused.

The conference was at an end. Browbeaten by the Bishops, and rebuked in no measured or decorous language† by James, the defenders of an apparently hopeless cause went back to their labours, to struggle on as best they might. Yet to them the cause they defended was not hopeless, for no doubt ever crossed their minds that it was the cause of God, and it would have seemed blasphemy to them to doubt that that cause would ultimately prevail. Nor were they deprived of human consolation: many hearts would sympathise with them in their wrongs; many a man who cared nothing for minute points of doctrine and ritual, and who was quite satisfied with the service as he had been accustomed to join in it at his parish church, would feel his heart swell with indignation when he heard that men whose fame for learning and piety was unsurpassed

CH. III.

1604.

Third  
day's con-  
ference.The deci-  
sion an-  
nounced.

\* The proclamation giving public notice of this determination was issued on the 5th of March, Rymer, xvi. 574; for the alterations themselves, see 565.

† There can be no doubt that many of the excrescences have been cut off in Barlow's narrative from the King's speeches. The coarse language used by James is noticed in Nug. *Ant.* i. 181.

CH. III. 1804. by that of any Bishop on the bench, had been treated with cool contempt by men who were prepared to use their wit to defend every abuse, and to hinder all reform. When the knights and burgesses were making their way to Westminster, in order to take their places in the House of Commons, there must have been many amongst them whose determination to do what in them lay to reform the Church, was strengthened by the tale of the treatment which Reynolds and Chaderton had met with at Hampton Court.

Whitgift  
feels  
doubtful of  
ultimate  
success.

His last  
words and  
death.

The King, too, went his way, thinking little of what he had done, and scarcely remembering what had passed, except to chuckle over the adversaries whom he had so easily discomfited by his logical prowess.\* The Bishops imagined that their victory was secured for ever, and rejoiced in the overthrow of their opponents. But there was at least one among them who felt that their success was more in appearance than in reality. The aged Whitgift, whose life had been passed in the heat of the conflict, discovered the quarter from which danger was to be apprehended. He hoped, he used to say, that he might not live to see the meeting of Parliament. He was at least spared that misfortune. A few weeks after the conference, his earthly career was at an end. While he was lying in his last illness, the King came to visit him. He found the old man lying almost insensible, but able to mutter a few words. All that could be heard was, 'Pro ecclesiâ Dei: pro ecclesiâ Dei.' Narrowminded and ungentle by nature and education, he had at least erred from no selfish motive. He had set up a system to be his idol, and he fancied that he was working for the Church of God. Such men as he

\* The King to Northampton, *Ellis*, 3rd ser. iv. 161. Here and elsewhere this letter is said to be written to an otherwise unknown Mr. Blake. It is printed as beginning 'My faithful Blake, I dare not say, faced 3,' which is mere nonsense. In the original MS. the word is 'blake' not commencing with a capital letter. 3 is always the cypher for Northampton in James's correspondence. What James meant was no doubt 'My faithful black, I dare not say (black) faced Northampton.' Northampton had, I suppose, objected to being called blackfaced. That 'blake' is equivalent to 'black' there can be no doubt. In Spottiswoode, for instance, the name of the St. Andrewes' preacher, David Black, is printed Blake.

cause misery and misfortune whenever power chances to fall into their hands; but they are not those of whom history dares to speak most harshly. If the work which they are called upon to do in the world is not done well, at least it is done honestly.

CH. III.  
1604.

## CHAPTER IV.

## THE KING AND THE HOUSE OF COMMONS.

CH. IV. THE Parliament, the very name of which caused such  
 1604. anxiety to Whitgift, was a very different body from  
 The Eng- those representative assemblies which still existed upon  
 lish Par- the Continent—the mere shadows of their former selves.  
 liament. Many causes concurred in producing this difference.  
 But the main cause lay in the success with which  
 England itself had grown up into an harmonious civilisa-  
 tion, so that its Parliament was the true representative  
 of a united nation, and not a mere arena in which  
 contending factions might display their strength.

Where this process of amalgamation has not been completed, parliamentary government, in the true sense of the word, is an impossibility. When Louis XIV. astonished the world by declaring that he was himself the State, he was unawares giving utterance to the principle from which he derived his power. In the France of his day, it was the monarch alone who represented the State as a whole, and, as a natural consequence, he was able to trample at his pleasure upon the bodies in which nothing higher was to be seen than the representatives of a party or a faction. If a representative assembly is to succeed in establishing its supremacy over a whole country equal to that which is often found in the hands of an absolute monarch, it must first be able to claim a right to stand up on behalf of the entire nation. The position which was occupied by the House of Commons at the close of the reign of Elizabeth, was due to the complete harmony in which it stood with the feelings and even with the prejudices of all classes of the people. If Englishmen had ever been



accustomed to affect the epigrammatic brevity in which some other nations find pleasure, the House of Commons might have answered those who challenged its claims with the simple words: We are the State.

CH. IV.  
1604.

The right of representing the people was practically confined to the higher classes, who alone could afford the expense of a residence in Westminster. But in scarcely a single instance did they owe their election, at least ostensibly, to their equals in rank. To secure a seat, it was necessary to obtain the favour of those whose interests were more or less different from their own. County members were dependent upon their poorer neighbours who formed the mass of the forty-shilling freeholders. The borough members, with all the habits and feelings of gentlemen, were equally dependent upon the shopkeepers of the towns for which they sat. Originally, the right of voting in the boroughs had been vested in the resident householders; but this uniformity had given way before the gradual changes which had passed over the several boroughs. In some places, the franchise had been considerably extended; in others, it had been no less considerably narrowed. One member was chosen by almost universal suffrage; another, by a close corporation consisting of the most respectable and intelligent inhabitants. In the smaller boroughs, indeed, the selection of a representative was practically in the hands of the most influential amongst the neighbouring proprietors; but even the form of an election prevented him from nominating persons who would be altogether distasteful to those whose votes he wished to secure. The effect of this was that, except in the case of legislating for agricultural labourers, who were, perhaps necessarily, altogether excluded from the suffrage, all class legislation was impossible.

Another change, which had been silently introduced, was of still greater importance. The old rule had been relaxed, which forbade any member to sit for a place in which he was not a resident. If this rule had continued in force, the House would still have represented the popular will, but it would have been sadly deficient in intelligence and ability. Some evil, no doubt, resulted,

## CH. IV.

1604.

and persons obtained seats who only owed them to the goodwill of a neighbouring proprietor; but this was as nothing in comparison with the advantage which arose from the introduction into the House of a large body of men of ability, recruited especially from amongst the lawyers, who became known to the electors by the talent which they displayed at the bar. The services which this class of men rendered to the cause of freedom were incalculable. The learning of the ablest lawyers in the sixteenth century may have been small in comparison with the stores of knowledge which may be acquired in our own day; but, relatively to the general level of education, it stood far higher. A few years later a race of Parliamentary statesmen would begin to arise from amongst the country gentlemen; but, as yet, almost all pretensions to statesmanship were confined to the council-table and its supporters. For the present, the burden of the conflict in the Commons lay upon the lawyers, who at once gave to the struggle against the Crown that strong legal character which it never afterwards lost.

Causes of  
the na-  
tional love  
of liberty.

It was to its position as the representative of an united nation that, above all other causes, the House of Commons owed its growing love for liberty. In every nation which is sufficiently advanced to take an intelligent part in the management of its own affairs, the love of liberty is innate. It is only lost when, after a deadly struggle between opposing classes or parties, the victors submit to chains in order that they may enjoy the pleasure of seeing their opponents loaded with the same fetters. In the England of the first years of the seventeenth century, it was only against the Catholics that this feeling existed, and the Catholics were little more than an insignificant fraction of the people. In struggling against them, the Government of Elizabeth had, indeed, been armed by Parliament and by public opinion with extraordinary powers; but those powers had been required to resist the foreign enemy far more than the English Catholics themselves, who suffered most from their exercise. Accordingly, a much smaller amount of repression was needed than would have been required if the nation had been divided against itself. There was

no outcry of one class against another. There was no imminent danger, which made men eager to see the Government interfering with the local institutions of the country, in order that it might be less impeded in its action against the enemy.

CH. IV.  
1804.

So it was that in England unity and liberty went hand in hand. The gentry of the counties and the corporations of the boroughs clung to their old habits of managing their own concerns. It was well understood that, if they had submitted to unusual restraint for certain definite objects, they would not continue to bear the pressure after those objects had been obtained.

It was not only in its desire to obtain a relaxation of the powers of the Government that the House of Commons appeared as the representative of the nation: in its sympathy with the religious feelings of the best and wisest of the time, it stood forth as the guide of the nation at a time when the King was contenting himself with the enforcement of an outward uniformity. It might safely be predicted that, if James was unable to guide the English nation in the path in which it was anxious to walk, and was unwilling to leave it a free course to find its own way, he would not long preserve undiminished the authority which he had received from his predecessor.

Strength  
of the  
House of  
Commons.

Between the Crown and the House of Commons the House of Lords could only play a subordinate part. It had no longer sufficient power to act independently of both. For the present it was, by sympathy and interest, attached to the Government, and it acted for some time more in the spirit of an enlarged Privy Council than as a separate branch of the legislature. In due course of time it would find its proper place at the head of the English nation. It is in this comparative weakness that its real strength consists. If it had been able to oppose a barrier to the Crown, or to the Commons, it would have been swept away long ago. It has retained its position through so many revolutions because it has, from time to time, yielded to the expressed determination of the representatives of the people; whilst it has done good service, as much by the necessity which it

The House  
of Lords.

CH. IV. imposes upon the House of Commons of framing their  
1604. measures so as to consult the feelings of others besides themselves, as by the labours in which it has been itself employed.

Proclama-  
tion for  
summon-  
ing Parlia-  
ment.

On the 11th of January 1604, a proclamation was issued calling upon the constituencies to send up members to a Parliament. In this proclamation, James gave his subjects much good advice, which would now be considered superfluous. He advised them to choose men fitted for the business of legislation, rather than such as looked to a seat merely as a means of advancing their private interests. In respect to religion, the members should be neither 'noted for superstitious blindness one way,' nor 'for their turbulent humours' on the other. No bankrupts or outlaws were to be chosen; and all elections were to be freely and openly made. Thus far no great harm was done. But the remainder of the proclamation, which owed its origin to the advice of the Chancellor, was sure to rouse the most violent opposition. The King ordered that all returns should be made into Chancery, where, if any 'should be found to be made contrary to the proclamation,' they were 'to be rejected as unlawful and insufficient.'\*

Parlia-  
ment  
meets.

On the 19th of March the Parliament met. Men felt that a crisis was at hand. Never had so many members attended in their places.† They came not without hopes that they would not return home until they had been allowed to sweep away at least some of the grievances of which they complained.

Since the last Parliament had met, one change had taken place which distinctly marked the altered relations which were to subsist between the Crown and the House of Commons. Elizabeth had always taken care that at least one of her principal statesmen should occupy a place amongst the representatives of the people. During the latter years of her reign this duty had devolved upon Cecil. The Secretary was now

\* *Parl. Hist.* i. 907. There are two sets of notes for the proclamation in the *Egerton Papers*, 384: one is in Popham's hand; the other, founded on it, in Ellesmere's. The latter alone contains the directions for the reference of disputed elections to Chancery, showing that this assumption originated with him.

† In consequence, additional seats were ordered, *C. J.* i. 141.

removed to the House of Lords, and he had left none but second-rate officials behind him. With the exception of Sir John Herbert, the second, or, as we should say, the Under-Secretary, a man of very ordinary abilities, not a single Privy Councillor had a seat in the House. Sir Julius Cæsar, Sir Thomas Fleming, Sir Henry Montagu, and a few others who either held minor offices under Government, or hoped some day to be promoted to them, were all respectable men, but there was not one of them who was capable of influencing the House of Commons.

CH. IV.  
1604.

There was, however, one man in the House who might have filled Cecil's vacant place. At the commencement of this session, Sir Francis Bacon stood high in the estimation of his contemporaries. Two boroughs had elected him as their representative. His fellow members shewed their appreciation of his abilities by entrusting him with the greatest share in their most weighty business. Scarcely a committee was named on any matter of importance on which his name does not occur, and he generally appears as the reporter, or, as we should say, the chairman, of the committee. If a conference was to be held with the House of Lords, he was almost invariably put forward to take a leading part in the argument. Nor is this to be wondered at; not only were his transcendent abilities universally recognised, but at this time all his opinions were in unison with those of the House itself. Toleration in the Church and reform in the State were the noble objects which he set before him. If James had been other than he was, the name of Bacon might have come down to us as great in politics as it is in science. The defects in his character would hardly have been known, or, if they had been known, they would have been lost in the greatness of his achievements. But for the moment, as far as his parliamentary career was concerned, he was borne on the full tide of success. His errors and his fall were yet to come. It is true that his conduct at the trial of Essex had shewn that he was not possessed of those finer feelings which might have saved him from many of his greatest mistakes; but, excepting to the friends of Essex himself, that conduct

Sir Francis  
Bacon.

CH. IV.  
1604.

does not seem to have given offence. Excess of submission to Elizabeth was a fault to which Englishmen were disposed to be lenient, and the limits within which public duty ought to overrule private friendship were drawn at a very different line from that which they at present occupy.\* Yet with all this, he was a dissatisfied man. He had now reached the mature age of forty-four, and he had long been anxious to be in a position from which he might carry out the great policy which he knew to be necessary for the well-being of the nation. The new King had looked coldly upon him. It is sometimes said that his share in the condemnation of Essex had told against him. But that James continued to feel respect for the memory of Essex is, to say the least of it, very problematical. However this may have been, there were other obstacles in his path. Bacon always believed that Cecil was envious of his talents. It is not improbable that the practical statesman regarded his cousin as a visionary; and Cecil

\* I should be sorry to have it supposed for a moment that I regarded Bacon's conduct towards Essex in the light in which it was looked upon by Lord Macaulay. Mr. Spedding has made that view impossible for the future. Essex was a real traitor. Bacon had always told him plainly that he placed his duties to the State above those to his friend; and when the time came to choose between them, he acted in perfect consistence with his own opinions. But it is one thing to make Bacon's conduct intelligible to those who do not regard him as a villain, and it is another thing to say that he acted rightly. It was not very many years afterwards that in the time of the Long Parliament, the House of Commons called upon Bulstrode Whitelocke to appear against Laud. Whitelocke, who had always been politically opposed to Laud, begged to be excused on the ground of old friendship, and his excuse was, without difficulty, admitted. It is hardly probable that any one will deny that Whitelocke was in the right, and that if the House had persisted, he would have been in the right in persisting in his refusal. If this is the case, Bacon was certainly wrong. I suppose that the rule is, that wherever the State is likely to suffer by anyone's yielding to the claims of private friendship, he is bound to fulfil his duty to the State; but that where this is not the case, he ought, at any sacrifice to himself, to avoid all actions which may injure those from whom he has received benefits. If it can be made out not only that the State would suffer from Essex's acquittal, but that there was no reasonable probability of obtaining a verdict of guilty unless Bacon took part in the trial, Bacon's conduct may be pronounced to be right. But if this be not the case, he was certainly wrong, judged at least by any high standard of morality. It is certain, however, that this distinction was not present to Bacon's mind. If he made a mistake, he did not do so with his eyes open. His interests and the bent of his mind led him in precisely the same direction. The opposition between them, which so many modern writers have described, exists only in their own imagination.

had the ear of the King. A still more probable cause of James's neglect of Bacon is to be found in the proposals for the pacification of the Church which he had lately laid before him. They were far too statesmanlike to bring him under the favourable notice of James. He retained, indeed, the title of King's Counsel, and he drew the salary, such as it was; but he was not admitted to any participation in the affairs of government.

CH. IV.

1604.

Next to Bacon, no man enjoyed the confidence of the House more than Sir Edwin Sandys. Without any pretensions to Bacon's genius, he possessed a fund of common sense which would save him from the errors to which his great contemporary fell a prey. The friend and pupil of Hooker, he was no Puritan; but, like so many others amongst his contemporaries, he had learned to raise his voice for the toleration of those with whom he did not wholly agree.

Sir Edwin Sandys.

Of the other members, there are few who deserve especial mention. Nicholas Fuller was there, full of Puritan zeal—a hasty and, in some respects, an unwise man. Hakewill too, who in a former Parliament, when the list of monopolies was read, had called out to know if bread were among them; Thomas Wentworth, whose father had suffered for his resistance to arbitrary power in the late reign; the two Hydes, and a few others, made up a little knot of men who would not allow their voices to rest as long as the grievances of the nation were unredressed.

Fuller, Hakewill, Wentworth and the Hydes.

Through some mistake, the Commons were not present when the King came down to the House of Lords to open the session. James, desirous that they should hear his views from his own lips, repeated to them the speech which he had already delivered in the Upper House. He told them that he was unable to thank them sufficiently for the ready welcome which he had met with on his journey into England. He had brought with him two gifts, which he trusted that they would accept in place of many words: one was peace with foreign nations—the other was union with Scotland. To the Puritans he declared himself decidedly opposed,

March 19.

March 22.

The King's speech.

CH. IV.  
1604.

not because they differed from him in their opinions, but because of 'their confused form of policy and parity; being ever discontented with the present Government, and impatient to suffer any superiority, which maketh their sect unable to be suffered in any well-governed Commonwealth.' As to the Papists, he had no desire to persecute them, especially those of the laity who would be quiet. Since his arrival, he had been anxious to lighten the burdens of those amongst them who would live peaceably, and he had been looking over the laws against them in hopes that 'some overture' might be 'proposed to the present Parliament for clearing those laws by reason . . . in case they have been in time past further or more rigorously extended by the judges than the meaning of the law was, or might lead to the hurt as well of the innocent as of the guilty persons.' With respect to the clergy, as long as they maintained the doctrine that the Pope possessed 'an imperial civil power over all Kings and Emperors,' and as long as they held that excommunicated sovereigns might be lawfully assassinated, they should not be suffered to remain in the kingdom. Although the laity would be free from persecution, they would not be allowed to win over converts to their religion, lest their numbers should increase so as to be dangerous to the liberties of the nation and the independence of the Crown. As to the laws which were to be made in Parliament, he said, 'I will thus far faithfully promise unto you that I will ever prefer the weal of the body of the whole Commonwealth, in making of good laws and constitutions, to any particular or private ends of mine, thinking ever the wealth and weal of the Commonwealth to be my greatest weal and worldly felicity—a point wherein a lawful King doth directly differ from a tyrant. . . I do acknowledge. . . that whereas the proud and ambitious tyrant doth think his kingdom and people are only ordained for the satisfaction of his desires and unreasonable appetites, the righteous and just King doth by contrary acknowledge himself to be ordained for the procuring of the wealth and prosperity of his people.' It remained to be seen how far James's wisdom could



embrace all the wants of his people, and how far his temper could stand under the annoyances to which he would be subjected as soon as they ventured to oppose him. CH. IV.  
1604.

The answer of the Speaker, Sir Edward Phelips, was loyal in its tone; but he skilfully managed to introduce a eulogy of the late Queen, and to remind the King that laws which were to bind the realm could only be made in Parliament.

Upon the return of the Commons to their own House two cases of privilege came before their notice. One of these brought up the old question of the freedom of members from arrest, though in the present case it was complicated by a further question as to whether such a privilege extended to them before the day of the meeting of Parliament. Sir Thomas Sherley, the member for Steyning, had been, after his election, lodged in the Fleet, at the suit of a city tradesman. The House took up his cause, and he took his seat on the 15th of May. This success, however, was not obtained without much difficulty. It was not until the Warden of the Fleet had been committed not only to the Tower, but to the dungeon known by the expressive name of Little Ease, and the intervention of the King himself had been obtained, that he consented to liberate the prisoner. It is gratifying to know that the filthy condition in which the dungeon was found was excused to the House on the ground that it had not been used for many years.\* Sherley's  
case of  
privilege.

The other case was of much greater importance, as it at once brought the House, in spite of itself, into collision with the Crown. Sir Francis Goodwin had been elected for Buckinghamshire, where he owed his seat to the votes of the smaller freeholders, his opponent, Sir John Fortescue, a Privy Councillor, having been supported by gentry of the county.† In accordance with the King's proclamation, the Court of Chancery had declared the election void, on the ground that Goodwin was an outlaw; and upon a second election, Goodwin's  
case.

\* C. J. *passim* from March 22 to May 22, i. 140; i. 22.

† C. J. March 22 to April 11, i. 149-169; *Parl. Hist.* i. 998-1017.

CH. IV. Fortescue had been chosen to the place which was thus  
1604. supposed to be vacant. The day after the matter was moved in the House, Goodwin was summoned to the bar, and, after his case had been heard, he was ordered to take his seat.

March 27. A few days afterwards the Lords sent a message to the Commons, asking for information on the subject. At first the Commons refused to grant their request, as being unconstitutional; but, upon a second message, informing them that the demand had been made at the King's desire, they agreed to a conference in order to justify themselves. In this conference they stated that, from the omission of certain technicalities in the proceedings taken against him, Goodwin was not an outlaw in the eye of the law; and that, even if he were, they could produce instances in which outlaws had taken their seats in the House. The King, in replying to them, took the whole affair out of the region of forms and precedents, and raised a question of constitutional law, which was a matter of life or death to the Commons. 'He had no purpose,' he told them, 'to impeach their privilege, but since they derived all matters of privilege from him, and by his grant, he expected that they should not be turned against him. . . . By the law, the House ought not to meddle with returns, being all made into Chancery, and are to be corrected or reformed by that court only into which they were returned.' He then proceeded to argue against their assertion that an outlaw could take his seat, and advised them to debate the question and to confer with the judges.

James attacks the privileges of the Commons.

March 29. As soon as these expressions were reported to the House, they knew that it was impossible for them to give way. Whatever might be the advantages of bringing questions of disputed elections before a regular and impartial tribunal (if such an one could be found), they knew that to yield the point to the King was equivalent to abdicating their independent position for ever. Without any settled design, James had simply proposed to abrogate the constitution, and to make it possible for himself, or for a future sovereign, to convert the House of Commons into a board of nominees.

It is impossible to refrain from admiring the prudence of the House in this difficulty. They at once threw aside all unimportant parts of the question, and restricted their opposition to the main point. They appointed a committee to draw up a reply to the King, and, at the same time, brought in a Bill to disable outlaws from sitting in Parliament for the future.

CH. IV.

1604.

The  
Commons  
resist.

On the 3rd of April the committee, with Bacon at its head, carried up the answer of the Commons to the Upper House, and requested that it might be laid before the King. They shewed that they had always decided in cases of disputed election, and they denied that they had come precipitately to a conclusion in the present instance. They steadily refused to confer with the judges.

Two days after this the King informed them that he had as great a desire to maintain their privileges as ever any Prince had, or as they had themselves. He had seen and considered of the manner and the matter, he had heard his judges and council, and that he was now distracted in judgment; therefore, for his further satisfaction, he desired and commanded, as an absolute king, that there might be a conference between the House and the judges, in the presence of his council, who would make a report to him.

April 5.

The Commons again gave way on the point of etiquette. These were signs that it was only thus that they could secure unanimity. Some of the members were frightened at James's tone.

This discussion with the judges, however, never took place. In an interview held with the King himself, by the committee, who had drawn up the reply of the House, James acknowledged that the House was the proper judge of the returns. But he asked them, as a personal favour, to set aside both the parties, and to issue a writ for a new election. It is no disparagement to the House that they gave way once more. They could not suffer a great cause to be wrecked upon a question of etiquette. It was well known that Goodwin was not anxious to retain his seat. He had even attempted, at the election, to induce the electors to transfer their votes

A com-  
promise.

CH. IV. to Fortescue. To satisfy those members who were  
1604. reasonably jealous of compromising the dignity of the House, a letter was obtained from Goodwin, declaring his readiness to submit to the arrangement.

That the substantial advantage remained with the Commons is evident from the fact that they proceeded, without opposition, to investigate two other cases of disputed election.

Grievances which required redress.

Meanwhile, neither House had been idle. The Commons, especially, were bent on doing work. Questions of reform, which had been left untouched during the life of Elizabeth, were now ripe for solution. All had felt the indelicacy of pressing her for changes which she would have considered to be injurious to her rights. She had served England well enough to be humoured in her old age. But that obstacle having been removed, the representatives of the people approached these questions in no disloyal or revolutionary spirit. They did not force their demands upon James because he was weaker than his predecessor. If he had been the wisest and ablest of rulers, they would still have asked him to make the redress of grievances the first act of his reign.

Recognition of James's title.

One of the first steps taken by the Government was to introduce a Bill recognising James's title to the throne, in order, by acknowledging the principle of hereditary right, to give a final blow to any claims which might be put forward by the representatives of the Suffolk line. As a proof of loyalty, the Bill was hurried through both Houses with all possible expedition. It was read for the first time in the House of Lords on the 26th of March, and on the 29th it had reached a third reading in the Commons.

March 26.  
Purveyance and Wardship.

On the same day as that on which this Bill was brought in, Cecil moved for a conference with the Lower House on the subject of the abuses of Purveyance. During the discussion in the House of Lords on this motion, a message was brought up from the Commons asking for a conference, in order that a petition might be drawn up upon the subject of Wardship. The feudal system was dead, and its relics were cumbering the ground. The abuse of Purveyance had come down from the days of

the first Norman sovereigns. When each little district was self-supporting, the arrival of the King's court must have seemed like the invasion of a hostile army. Even if the provisions which they consumed had been paid for, the inhabitants would have had much difficulty in replacing their loss. But it frequently happened that they were taken without any payment at all. The time came, at last, when other powers made themselves heard than the power of the sword; and when the representatives of the towns joined the knights and barons in Parliament, this was one of the first grievances of which they complained. Session after session new remedies were assented to by the King, and statutes were passed with a frequency which gives too much reason to suspect that they were broken as soon as made. At first the Commons contented themselves with asking that purveyors should be prohibited from appropriating to their own use money which they had received from the Exchequer for the acquittal of debts contracted in the performance of their duty.\* Twenty-two years later they had risen in their demands, and obtained an assurance that nothing should be taken without the assent of the owner.† In the reign of Edward III. various statutes were made upon the subject. At one time the King promised that nothing should be taken without the owner's assent.‡ At other times he agreed that the purchases were to be appraised by the constable and four discreet men of the neighbourhood.§ Offenders who gave less than the price fixed were to be arrested by the town, to be put in gaol, and, upon conviction, to be dealt with as common thieves. In the reign of Henry VI. it was even declared that all persons had at once a right of openly resisting the offending purveyors.

In spite of these, and many other similar statutes, the grievances complained of still continued unabated. The Commons drew up a Bill declaring the illegality of

CH. IV.  
1604.

Bill  
brought in  
against the  
abuses of  
purveyors.

\* 3 Ed. I. stat. West. 1, cap. 32.

† 25 Ed. I. stat. de Tallagio, cap. 2.

‡ 14 Ed. III. stat. 1, cap. 19.

§ 4 Ed. III. cap. 3; 5 Ed. III. cap. 2; 25 Ed. III. cap. 1; 36 Ed. III. cap. 2.

CH. IV.  
1604.  
April 27.  
Petition to  
the King.

these abuses, but, at the same time, that there might be no complaint against their proceedings, they prepared a petition in which they proposed to lay their case before the King.\* They assured him that they had no wish to infringe upon his rights, but the grievances of which they complained had been declared to be illegal by no less than thirty-six statutes. They alleged that the cart-takers, whose business it was to find carriage for the King's baggage whenever he moved, were guilty of the grossest abuses in order to put money into their own pockets. They would often order the owners of eight or nine hundred carts to send them in, when two hundred would be sufficient. By this means they hoped that bribes would be offered them by the owners of the carts, who would all be anxious to obtain their discharge. Those who were unable or unwilling to pay were often detained for a week before they were allowed to go. Twopence a mile was allowed to those actually employed, which was calculated upon the distance which they had travelled to the place of loading, whilst nothing at all was given for their actual service, or for the return journey. After some hundreds of persons had bribed the officers for exemption, the remainder of the inhabitants of the county were required to make up the full number of carts. What was worse still, the cart-takers were frequently in the habit of selecting tired horses, in the expectation that the owners would be obliged to pay them money to let them go.

The purveyors themselves were quite as bad. Instead of paying for goods according to the appraisement, they were accustomed to call in strangers of their own choice to make a second valuation, and often forced upon the owners a mere fraction of the sum really due. They frequently refused to pay in ready money, and they committed to prison the constables who assisted those who stood out against their illegal proceedings. Even justices of the peace had been imprisoned for hearing cases against purveyors, although the law expressly required them to take cognizance of such matters.

\* C. J. Ap. 30, i. 190.

James answered that he was desirous to remove all causes of complaint; but that he believed that arrangements had been made by which such cases could not possibly recur. Some of the officers of the household who were standing by, to whom he appealed, assured him that all complaints were invariably listened to, and that justice was always done.

CH. IV.

1604.

The King's  
answer.

A few days after this unsatisfactory interview, another attempt was made to obtain the cooperation of the Lords. It is characteristic of the different spirit which prevailed in the two Houses, that the Lords proposed a Sunday as the best day for the conference.\* The Commons requested them to fix upon some other day, as they were determined not to do any business on the Sabbath. With respect to the proposed measure, the Lords appear to have been divided in opinion. Some called the purveyors harpies, and wished for the extermination of the whole race. But the courtier element was strong in the Upper House. Many questioned whether the King could afford to remit anything to his subjects at present. One of them took up the unlucky ground, that, as there were many penal laws which the King did not press, he had a right to look to his people for some indulgence in return. In other words, the King and the nation were to regard one another as parties to a bargain; the loss of one was to be the gain of the other. This error was destined to be the leading idea of the Kings of England through more than eighty weary years. They never could comprehend that, if the interests of the Sovereign were really distinct from the interests of the nation, one of the two must give way, and that such a strife could only end in their own ruin.

Opinion of  
the Lords.

The Commons did not take the trouble to answer this argument. Seeing how difficult it was to separate between the practice of purveyance and the abuses attending upon it, their committee, with Bacon at its head, boldly proposed to offer £50,000 a-year to be quit of the nuisance altogether.† They summoned the

The Commons offer  
to bargain  
for the dis-  
continu-  
ance of the  
system.

\* At this time Sunday was the day upon which a meeting of the Privy Council was always held after service.

† C. J. May 9, i. 204; L. J. May 8, ii. 294.

CH. IV.

1604.

officers of the Board of Green Cloth, who presided over the whole system, to give evidence. The answers given by these men are curious, as showing the lengths to which official persons will sometimes go. They raked up obsolete statutes to justify the grossest abuses. They asserted their right to exercise the most tyrannical power; and, whenever any charge was made against them for which even they found it impossible to invent an excuse, they boldly denied the facts.

With-  
drawal of  
the propo-  
sition.

This was the last step taken by the Commons. On the 2nd of June they decided to let the matter sleep till another session, though they intimated their intention of laying the causes of their failure before their constituents. To understand their motives for withdrawing their project in this sudden manner, it is necessary to pass in review the other proceedings of the session.

Objections  
to the  
Court of  
Wards.

In dealing with the question of purveyance, the House had, at least at first, been contented with lopping off the abuses; but with Wardship the case was different. The whole system was one huge abuse. But, whatever it was, it was strictly legal. It was a system by which every King of England had profited since the days of the Conqueror. There was therefore no mention of proceeding by Bill, but the Lords were asked to join in petitioning the King for leave to treat with him on the subject. The King's prerogative was unquestioned; but it was hoped that he would yield his rights in consideration of the grant of a large and certain yearly revenue. The system itself might have had some show of reason to support it in the days when feudality was still in vigour. Sovereignty brings with it, even in our own times, obligations which in some cases interfere with personal and domestic liberty; and, in the middle ages, every man who had a place in the feudal hierarchy was in some respects a sovereign. The ownership of land carried with it the title to command a greater or less number of men; it was, therefore, only natural that when the owner was a minor, and, in consequence, was unable to take his place at the head of his vassals, the lord should take the land into his own hands, and should receive the profits, as long as he was himself obliged to



perform the duties attached to the tenure. For similar reasons, it was not repugnant to the feelings of the age, that where the heir was a female, the lord should take an interest in the disposal of her hand, and should claim a right to select the husband who was in future to have at his command the vassals of the heiress in question.\* If the colonelcies of regiments were heritable property, similar regulations might be found necessary even in the nineteenth century.

CH. IV.  
1604.

This right not being confined to the Sovereign, but being shared in by all who had vassals depending upon them, the lords were by no means eager, as long as the feudal system really lasted, to exclaim against it. The evils against which the Great Charter provided were abuses with which the system itself had become encrusted. Gradually, however, the old theory sunk into oblivion, and the King's claims upon wards dwindled into a mere machinery for bringing in money in a most oppressive manner. Men were dissatisfied with the thought that it was possible that, at their death, their lands might undergo a temporary confiscation, and with the knowledge that their daughters might have to bribe some courtier in order to escape from an obnoxious marriage. When the feudal militia ceased to be the army of the nation, every reason for the maintenance of the Court of Wards came to an end. The legal right remained, but the duties with which it was, in theory, connected, had long ago ceased to be performed.

This being the state of opinion on the subject, the Lords readily concurred with the Commons in desiring relief.† It was not till the 26th of May, that the Commons brought forward a definite proposal. They offered to raise a revenue which would be larger than any that the King had ever obtained from the Court of Wards, and to grant pensions to the officers of the Court for the remainder of their lives. They were not precipitate in their measures. All that they asked for was a general

The Lords concur in a petition on the subject of wardship.

\* The lords claimed the right of the marriage of even male heirs, but it is difficult to see on what principle.

† C. J., March 26, i. 153.

CH. IV. approbation on the King's part. If they obtained this,  
1604. they would appoint commissioners who should, during the recess, inquire into the proportion of the burden borne by different counties and individuals, in order that, in the course of the next session, arrangements might be made for offering a sufficient composition to the King, and also to those subjects who possessed a similar right.

On the 1st of June, Sir Edwin Sandys reported the result of a conference with the Lords on this proposal. The Lords, under the influence of the Court, had thrown cold water even on this moderate scheme. They threw out doubts as to the possibility of raising a sufficient indemnity; and even found fault with the Commons for wasting their time on questions of privilege, and in discussing purveyance and ecclesiastical matters, although the question of purveyance, at least, had been first moved in their own House. The King himself too had summoned the two Houses before him, and had expressed, in strong terms, his dissatisfaction with the House of Commons. Upon this, it was resolved that an account of their conduct should be drawn up and presented to him for their justification.

James dis-  
pleased  
with the  
Commons  
for their  
want of  
eagerness  
about the  
Union.

In truth, James was in no good humour with the Commons. The one object upon which he had set his heart, they were inclined to look upon with suspicion. On the occasion of his giving way to them on the subject of the Buckinghamshire election, he pressed them to take in hand his favourite measure for an union with Scotland. He wished, as he told them, to leave at his death 'one worship to God, one kingdom entirely governed, one uniformity in laws.'<sup>\*</sup> It is not very easy to make out, from the brief abstracts of his speeches which have been preserved, what his precise design may have been; perhaps he had no definite idea of it himself. He saw the advantages which would accrue to both countries from a complete union, and longed to anticipate the fruits which would eventually spring from the carrying out of his project.<sup>†</sup> His personal vanity, and

<sup>\*</sup> C. J., Apr. 18, i. 171.

<sup>†</sup> The charge that he wished for the Union in order to be able to gratify

his constitutional impatience, made him anxious that the work should be accomplished by his own hands. His ignorance of human nature brought him speedily into collision with his subjects on this point. It had not been for want of warning; Cecil, as usual, had given him good advice. He told him that the two nations were not ripe for an union until they ceased to look upon one another with hostile eyes. In process of time, such a measure would be heartily welcomed. All that could now be done was to appoint commissioners on either side, who might discuss the whole question, and determine how far it was practicable to remove the barriers by which the two nations were separated.\* It was all in vain; James was in such haste to see a marriage between the kingdoms, that he would not allow time for the preliminary courtship.

CH. IV.  
1604.

The disposition of the House of Commons was at once tested by the proposal that they should immediately agree to his assumption of the title of King of Great Britain. They felt that in this, which was apparently a mere verbal question, the most important consequences were involved. Bacon expressed the whole difficulty in a few words, when he asked, 'By what laws shall this Britain be governed?' In those days of undefined prerogative, it was impossible to say what claims might not be raised: James might attempt to amalgamate the legislatures by proclamation; he might fill the public offices of State with his countrymen, without leaving any legal ground of resistance. Let there be some agreement as to the terms of the union before it was ratified by the assumption of a title. The King gave way, courteously at first, but he soon grew vexed and angry. Cecil must have felt his triumph, when he

Proposed  
title of  
King of  
Great  
Britain.

Objected  
to by the  
Commons.

his Scotch favourites, can only be made by those who forget that he had it in his power to make any foreigner a denizen, and thus to enable him to hold lands granted by the Crown, and that his chief favourites were naturalized by Act of Parliament.

\* Cecil begged the King to postpone the Union, and '*seulement d'assembler des commissaires députés et choisis d'une part et d'autre à fin de comparer et accorder des moïens de la bien faire, et cependant donner loisir aux peuples de se hanter, et se lier doucement par mariages.*'—Beaumont to the King, Feb. 12, 1604.

CH. IV. read in the House of Lords the draft of a Bill prescribing the appointment of such a commission as he had himself recommended. Twenty-eight commissioners were named, who were taken equally from the two Houses; and it was understood that Parliament was to meet again in the following year, in order to receive their report.

The ill-humour of the King was aggravated by the course which had been taken by the Commons with regard to ecclesiastical affairs. He hated the Puritans, and it was commonly said that three parts of the House were Puritans.\* If so, they were Puritans of a very different stamp from those who, after nearly forty years of arbitrary government, filled the benches of the Long Parliament. They committed to the Tower a man who presented a petition, in which the Bishops were described as antichrists. They would have been ready to assent to any guarantees which the King might think necessary for maintaining his supremacy in the Church, as well as in the State; but they took a truer view of ecclesiastical questions than James or his Bishops were able to take, and they saw that unless concessions were made, all vitality would quickly depart from the Church. If these differences were not allowed to exist within, they would break out elsewhere. Little as they thought what the consequences of their acts would be, Elizabeth and Whitgift, James and Bancroft, by making a schism inevitable, were the true fathers of Protestant dissent.

The Commons dissatisfied with the Hampton Court settlement.

Perhaps such a schism was sooner or later unavoidable, but, if the Commons had been allowed to carry out their views, it might have been long delayed. The moral earnestness of Puritanism would not have been embittered by a long struggle for existence. It would have escaped the worst trial which religion knows—the trial of political success. Men like Baxter, and men like Jeremy Taylor, would have laboured together as brethren in one common faith; truth and godliness would have worked their way insensibly, quietly influencing the whole social fabric in their course. But

\* Sir R. Wingfield's account of his speech, *S. P. Dom.* vii. 2.

these are but visions; the sad reality presents us with a very different picture.

On the 16th of April, Sir Francis Hastings moved for a committee, to consider 'of the confirmation and reestablishing of the religion now established within this kingdom; as also of the settling, increasing, and maintaining a learned ministry, and of whatsoever else may incidentally bring furtherance thereunto.'

The King immediately sent to request that the House, before entering upon such matters, would confer with Convocation. The Commons, always jealous of that body, sent a distinct refusal, though they expressed their readiness to treat with the Bishops as Lords of Parliament.

They empowered the committee to propose to the Lords that, in accordance with the Act of 13 Elizabeth, ministers should be required to subscribe to those articles only which related to doctrine and the sacraments, and that all persons hereafter admitted to the ministry should be at least Bachelors of Arts, and should have the testimony of the University to their moral conduct and ability to preach. If, however, anyone was desirous of ordination who had not studied at either of the Universities, a similar testimonial from six preachers of his own county was to be sufficient. They asked that no more dispensations might be granted for pluralities and non-residence, and hoped that some augmentation might be afforded to small livings of less than the annual value of £20. Lastly, they begged the Lords to join them in putting a stop to the deprivation of men who objected only to the use of the surplice and of the cross in baptism, 'which,' as they said, 'turneth to the punishment of the people.'\*

Finding the Lords but lukewarm in the cause, they brought in two Bills in their own House—one directed against pluralists, of which we have no particulars, and the other providing for a learned and godly ministry, embodying the opinions which they had expressed in their conference with the other House,† but adding a

CH. IV.

1604.

Proceedings of the Commons in ecclesiastical matters.

They refuse to confer with Convocation.

Proposals sent to the Lords.

Bills brought in, and lost in the House of Lords.

\* C. J., May 5, i. 199.

† S. P. Dom. viii. 86.

CH. IV. clause which must have been a terror to all unfit  
 1604. expectants of benefices. It was to be enacted that, if any person were afterwards inducted without the testimonials required, the parishioners might lawfully withhold from him the payment of tithes. It is needless to say that both Bills fell through in the Lords.

The trading companies.

One other important subject engaged the attention of the House during the session, of which they took a view which did not help to bring them into harmony with the Government. At the accession of James, the French trade was the only one which was open to any Englishman who was not a member of one of the great companies. These associations had driven their rivals out of the field by other means than by the superior power of capital. They had chartered rights, which prohibited Englishmen from trading within their limits. The Russia Company claimed the trade with Muscovy, and the commercial intercourse with the inhabitants of the shores of the Baltic was in the hands of the Eastland Company.\* From the Cattogat to the mouth of the Somme the merchant adventurers held sway.† From thence there was a line of free shore till the dominions of the Spanish King presented what till lately had been an enemy's coast. Venice and the East were visited by the vessels of the Levant Company. Western Africa had a company of its own; and beyond the Cape, the continents and islands over the trade of which the great East India Company claimed a monopoly, stretched away to the Straits of Magellan, through three-quarters of the circumference of the globe. In the early days of the late reign, such associations had served the purpose of fostering the rising commerce of England. There was not sufficient capital in the hands of individuals to enable them to bear the risk of such distant enterprises; nor was the power of the Government sufficient to guarantee them that protection which alone could make their risks remunerative. The Companies undertook some of the responsibilities which

\* Macpherson's *Annals of Commerce*, ii. 164.

† Macpherson, ii. 220.

at a later period were considered to fall upon the State. They supported ambassadors, and appointed consuls to represent their interests.\* They were better able than private persons would have been to discover new outlets for trade. The risk which must have been run in making voyages for the first time to such countries as Russia or India was so great, that it was only fair to compensate for it by the monopoly of the trade—at least for a limited period. Nor were the voyages even to friendly ports free from danger. In 1582 the Russia Company had to send out eleven ships, well armed, for fear of enemies and pirates.

CH. IV.  
1604.

Now, however, the time was favourable for reviewing the commercial policy of the country. The Levant Company had surrendered its charter shortly after the King's accession. Spain was soon to be thrown open to English commerce. The increase of wealth made many persons desirous of engaging in trade who were not members of any company; but, above all, there was a growing feeling of jealousy against the London merchants, on the part of the shipowners of the other ports. A native of Plymouth or of Southampton might engage in the coasting trade, or he might even send his vessel to the other side of the Channel; but if he wished to push his fortune by engaging in commerce on a larger scale, he was at once checked by learning that the charter of some great Company, whose members were sure to be Londoners, stood in his way.

In consequence of the general dissatisfaction with the privileges of the Companies, appeals were made to the Privy Council. These being without result, the whole case was referred to Parliament. A committee of the Lower House, with Sir Edwin Sandys at its head, took great pains to arrive at the truth. They devoted five afternoons to the investigation of the alleged grievances, and to the discussion of a Bill for throwing open the trade.† Clothiers and merchants from all parts of the realm attended their sittings in crowds.

A committee investigated the complaints against the companies.

\* Suggestions for regulating the Levant Trade, Feb. 29, 1604, *S. P. Dom.* vi. 70.

† *C. J.*, May 21, i. 218.

CH. IV.

1604.

They complained bitterly that the existing system was a juggle, by which the whole commerce of England was thrown into the hands of a few interested persons. Arguments were heard on both sides. The free traders urged the natural right of all men to trade where they would, and reminded the Committee that monopolies were only of recent invention. They said that at most the members of the Companies were only five or six thousand in number, and that of these only four or five hundred were actually engaged in trade. They pointed to the success of other commercial nations where trade was free. They saw that in their policy would be found a remedy for the evil which proclamations and Acts of Parliament had striven in vain to cure. The rapid growth of London in proportion to other towns was astonishing to that generation. The money received in the port of London in a single year for customs and impositions amounted to £110,000, whilst the whole sum of the receipts from the same sources in all the rest of the kingdom was nothing more than a beggarly £17,000. They trusted that freedom of trade would be more favourable to the equal distribution of wealth. Ships would be built in greater numbers, mariners would obtain more constant employment, and the Crown would reap the benefit by an increase of customs. They concluded with a remark characteristic of a people amongst whom no broad line of demarcation separated the different classes of the community: the younger sons of the gentry, they said, would be thrown out of employment by the cessation of the war, let an open career be provided for them in mercantile pursuits, where alone it could be found.

The force of these arguments was only equalled by the shallowness of the opposition made to them. It was gravely urged that no monopoly was granted to any company, because a right possessed by more than a single person could not properly be termed a monopoly. It was said that all England could not produce more than the companies carried abroad, that the time of the apprentices would be thrown away if the existence of the companies were cut short. The counsel on behalf



of the monopolists inveighed against the injustice of putting an end to such useful and flourishing societies. He was told that there was no intention of abolishing a single company. The Bill only provided for throwing the trade open. If it were true, as was asserted, that commerce on a large scale could not be carried on by private merchants, why this opposition to the Bill? The permission to such merchants to engage in trade would be void of itself, if it was really impossible for them to enter into competition. Again, it was objected that the King would never be able to collect the customs. In reply to this, several merchants offered, in case the Bill passed, to pay for the farm of the customs a higher sum than the average of the receipts of the last five years.

CH. IV.  
1604.

When the Bill stood for a third reading, 'it was three several days debated, and in the end passed with great consent and applause of the House, as being for the exceeding benefit of all the land, scarce forty voices dissenting from them.'

The Bill was sent up to the House of Lords, where counsel was again heard on both sides. Coke, as Attorney-General, spoke against it, acknowledging its purpose to be good, but objecting to certain defects in it. Upon this the Bill was dropped. The Commons expressed their intention of taking the matter up again in the following session.\*

Before the failure of the last measure, a committee had been appointed to draw up an address to the King. On the 20th of June this address was read in the House. We have no account of its presentation, but from the allusion which James made to it at the time of the prorogation, it can hardly be doubted that he had, in some way or other, become acquainted with its contents.

The apology of the Commons.

The Commons, in whose name the address was drawn up, began by explaining that they were under a necessity of justifying their conduct. They acknowledged that the King was a Prince eminent for wisdom and understanding, yet as it was impossible for any man, however wise, to understand at a glance the customs of

\* C. J., July 6, i. 253.

CH. IV.

1604.

a whole people, he had necessarily been dependent upon others for information. They had been sorry to find that he had been grievously misinformed, both with respect to the condition of the people and the privileges of Parliament. They thought it better, therefore, to speak out, and not to leave these misunderstandings as seeds for future troubles.

They received the King with joy and expectation of reform.

They had, first, to defend themselves against an insinuation which had been made by one of the Lords, that they had accepted the King, upon the death of the late Queen, rather from fear of the consequences which would have ensued upon rejecting him, than from any love which they bore to his person. They protested their loyalty, and assured the King that they had looked forward to his reign with hopefulness, as expecting that under him religion, peace, and justice would flourish, and that 'some moderate ease' would be afforded 'of those burdens and sore oppressions under which the whole land did groan.' Remembering 'what great alienation of men's hearts the defeating of good hopes doth usually breed,' they could not do better than lay before him the grievances which were universally felt.

Three points on which the King has been misinformed.

The misinformation delivered to the King consisted of three points—first, that they held 'not' their 'privileges as of right, but of grace only, renewed every Parliament, by way of donative upon petition, and so to be limited; secondly, that' they were 'no court of record, nor yet a court that can command view of records; . . . and lastly, that the examination of the returns of writs for knights and burgesses is without our compass, and due to the Chancery. Against which assertions,' they proceeded to say, 'Most Gracious Sovereign, tending directly and apparently to the utter overthrow of the very fundamental privileges of our House, and therein of the rights and liberties of the whole Commons of the realm of England, which they and their ancestors from time immemorial have enjoyed under your Majesty's noble progenitors, we the knights, citizens, and burgesses in the House of Commons assembled in Parliament, and in the name of the whole Commons of the realm of England, with uniform con-

They protest against these assertions.

CH. IV.

1604.

sent for ourselves and our posterities, do expressly protest, as being derogatory in the highest degree to the true dignity, liberty, and authority of your Majesty's High Court of Parliament, and consequently to the right of all your Majesty's said subjects, and the whole body of this your kingdom, and desire that this our protestation may be recorded to all posterity.'

'And contrarywise, with all humble and due respect to your Majesty, our Sovereign Lord and Head, against those misinformations we most truly avouch<sup>o</sup> that our privileges and liberties are of right and due inheritance, no less than our very lands and goods;<sup>o</sup> that they cannot be withheld from us, denied, or impaired, but with apparent wrong to the whole state of the realm;<sup>s</sup> and that our making of request, in the entrance of Parliament, to enjoy our privileges, is an act only of manner, and doth not weaken our right, no more than our suing the King for our lands by petition, which form though new and more decent than the old by *precipe*, yet the subject's right is no less now than of old.<sup>o</sup> We avouch also that our House is a Court of Record, and so ever esteemed,<sup>o</sup> and that there is not the highest standing Court in this land that ought to enter into competency either for dignity or authority with those High Courts of Parliament which, with your Majesty's royal assent, give laws to other courts, but from other courts receive neither laws nor orders.<sup>o</sup> And, lastly, we avouch that the House of Commons is the sole proper judge of the return of all such writs, and of the election of all such members as belong unto it, without the which the freedom of election were not entire; and that the Chancery, although as a standing court under your Majesty, be to send out those writs, and to receive the returns and to preserve them, yet the same is done for the use of the Parliament over which Chancery, nor any other court ever had, or ought to have, any manner of jurisdiction.'

'From these misinformed positions, Most Gracious Sovereign, the greatest part of our troubles, distrust, and jealousy have arisen, having apparently\* found that

\* Here and always 'apparently' means 'plainly.'

CH. IV.

1604.

in this first Parliament of the happy reign of your Majesty, the privileges of our House, and therein the liberties and stability of the whole Kingdom hath been more universally and dangerously impugned than ever, as we suppose, since the beginning of Parliaments. For although it may be true that, in the latter times of Queen Elizabeth, some one privilege, now and then, were by some particular act attempted against, yet was not the same ever by so public speech, nor by positions in general, denounced against our privileges. Besides that in regard of her sex and age, which we had great cause to tender, and much more upon care to avoid all trouble which by wicked practice might have been drawn to impeach the quiet of your Majesty's right in the succession, those actions were then passed over which we hoped, in succeeding times of freer access to your Highness' so renowned grace and justice, to redress, restore, and rectify; whereas, contrarywise, in this Parliament which your Majesty in great grace, as we nothing doubt, intended to be a precedent for all Parliaments that should succeed, clean contrary to your Majesty's so gracious desire, by reason of those misinformations, not only privileges, but the whole freedom of the Parliament and realm, hath from time to time, on all occasions, been mainly hewed at.'

Particular  
com-  
plaints.

They then came to particulars. Doubts had been thrown upon the liberty of election. 'The freedom of' their 'speech' had been 'prejudiced by often reproof,' the Bishop of Bristol had written a book in which they had been reviled.\* Some of the clergy had been preaching against them, and had even published their protestations against the undoubted right of the House to deal with ecclesiastical affairs. 'What cause' they had 'to watch over their privileges,' was 'manifest in itself to all men. The prerogatives of princes' were daily growing; 'the privileges of subjects' were 'for the most part at an everlasting stand.' They might 'be by good

\* On the complaint of the Commons, he was compelled to ask pardon. He had undertaken to refute arguments used in the House of Commons, a high offence before debates were published, as the attacked party might be misrepresented, and had no opportunity of reply.

providence and care preserved, but, being once lost,' they were not to be 'recovered but with much disquiet. If good kings were immortal,' they might be less careful about their privileges. But a day might come when a hypocrite and a tyrant might sit upon the throne, and it was therefore their bounden duty to provide for posterity.

They had heard that particular speeches had been misreported to the King, they hoped, therefore, that he would allow those members whose words had been misrepresented to justify themselves in the presence of their accusers.

After offering a defence of their conduct in the cases of the Buckinghamshire election, of Sir Thomas Sherley's imprisonment, and of the Bishop of Bristol's book, they touched upon the thorny subject of the Union.

'The proposition,' they said, 'was new, the importance great, the consequence far-reaching, and not discovered but by long dispute. Our number also is large, and which hath free liberty to speak; but the doubts and difficulties once cleared and removed, how far we were from opposing the just desires of your Majesty (as some evil-disposed minds would perhaps insinuate, who live by division, and prosper by the disgrace of other men) the great expedition, alacrity, and unanimity which was used and showed in passing of the Bill may sufficiently testify.'

CH. IV.  
1604.  
Their conduct respecting the Union,

Having thus got over this difficulty, perhaps by making more of their own readiness to meet the King's wishes than the facts of the case would justify, they proceeded to a still more important subject.

'For matter of religion,' they said, 'it will appear, by examination of the truth and right, that your Majesty should be misinformed if any man should deliver\* that the Kings of England have any absolute power in themselves either to alter religion, (which God forefend

and matters of religion.

\* This must refer to the Canons which were passed through Convocation in this session. In an anonymous paper (*S. P. Dom.* vi. 46) entitled *Substance of the Doctrine of the Church of England on the King's Supremacy*, it is expressly stated that the King had the right to confirm ecclesiastical canons, and to give them the force of laws.

CH. IV. should be in the power of any mortal man whatsoever),  
1604. or to make any laws concerning the same, otherwise than in temporal causes, by consent of Parliament. We have and shall at all times by our oaths acknowledge that your Majesty is sovereign lord and supreme governor in both. Touching our own desires and proceedings therein, they have been not a little misconceived and misinterpreted. We have not come in any Puritan or Brownist spirit to introduce their parity, or to work the subversion of the State ecclesiastical as now it stands, things so far and so clear from our meaning as that, with uniform consent, in the beginning of this Parliament we committed to the Tower a man who out of that humour had, in a petition exhibited to our House, slandered the Bishops; but according to the tenor of your Majesty's writs of summons directed to the counties from which we came, and according to the ancient and long continued use of Parliaments, as by many records from time to time appeareth, we came with another spirit, even with the spirit of peace; we disputed not of matters of faith and doctrine, our desire was peace only, and our device of unity, how this lamentable and long-lasting dissension amongst the ministers (from which both atheism, sects, and ill-life have received such encouragement, and so dangerous increase) might at length, before help come too late, be extinguished. And for the ways of this peace we are not addicted at all to our own inventions, but ready to embrace any fit way that may be offered. Neither desire we so much that any man, in regard of weakness of conscience, may be exempted after Parliament from obedience to laws established, as that in this Parliament such laws may be enacted as by relinquishment of some few ceremonies of small importance, or by any way better, a perpetual uniformity may be enjoined and observed. Our desire hath been also to reform certain abuses crept into the ecclesiastical estate even as into the temporal; and, lastly, that the land might be furnished with a learned, religious, and godly ministry, for the maintenance of whom we would have granted no small contribution, if in these (as we trust) just and religious desires we had found that

correspondency from others which was expected. These minds and hearts we in secret present to that Sovereign Lord who gave them, and in public profess to your gracious Majesty, who, we trust, will so esteem them.' CH. IV.  
1604.

After justifying their conduct in the debates on wardship and purveyance, they concluded with words which would surely have touched the heart of a wiser man than he was with whom they had to deal.

'There remaineth, dread Sovereign,' they said, 'yet one part more of our duty at this present which faithfulness of heart (not presumption) doth press us to. We stand not in place to speak or to propose things pleasing. Our care is, and must be, to confirm the love, and to tie the hearts of your subjects, the Commons, most firmly to your Majesty. Herein lieth the means of our well deserving of both. There was never Prince entered with greater love, with greater joy and applause of all his people. This love, this joy, let it flourish in their hearts for ever. Let no suspicion have access to their fearful thoughts that their privileges, which they think by your Majesty should be protected, should now by sinister information or counsel be violated or impaired, or that those who with dutiful respect to your Majesty speak freely for the right and good of their country shall be oppressed or disgraced. Let your Majesty be pleased to receive public information from your Commons in Parliament, as well of the abuses in the Church as in the Civil State and Government. For private informations pass often by practice. The voice of the people, in things of their knowledge, is said to be as the voice of God. And if your Majesty shall vouchsafe at your best pleasure and leisure to enter into gracious consideration of our petitions for ease of those burdens under which your whole people have long time mourned, hoping for relief by your Majesty, then may you be assured to be possessed of their hearts for ever, and if of their hearts, then of all they can do and have. And we your Majesty's most humble and loyal subjects, whose ancestors have with great loyalty, readiness, and joyfulness served your famous progenitors, Kings and Queens of this realm, shall with like loyalty

Conclu-  
sion.

CH. IV.  
1604. and joy, both we and our posterity, serve your Majesty and your most royal issue for ever with our lives, lands, and goods, and all other our abilities, and by all means endeavour to procure your Majesty's honour with all plenty, tranquillity, joy, and felicity.\*

The Commons take up their position by this apology.

Such was the address, manly and freespoken, but conservative and monarchical to the core, which the House of Commons was prepared to lay before the King. In it they took up the position which they never quitted during eighty-four long and stormy years. To understand this apology, is to understand the causes of the success of the English Revolution. They did not ask for anything which was not in accordance with justice. They did not demand a single privilege which was not necessary for the good of the nation as well as for their own dignity. In every point they were emphatically in the right, whilst in some point or other, the King, the Council, the House of Lords, the Bishops and the Puritans, were no less emphatically in the wrong. Their cause was just, and with the knowledge that the nation would support them, they could afford to wait with patience. It was, at least, not disgraced by any ebullitions of feeling. If their demands were refused, they would leave them at the foot of the throne, and they would return to their constituents to tell them the treatment which they had met.

No subsidy granted.

One check, however, it was still in their power to inflict upon James. Even with the strictest economy he would have found difficulty in bringing his expenditure within the compass of his revenue. But with his habits of profusion, all hope of this rapidly passed away. He had been already compelled to borrow, and had incurred debts, in addition, which he had no means of paying. He was therefore anxious to obtain a Parliamentary grant, which would supply the deficiencies of his ordinary revenue. His Ministers urged upon the Commons that it would be well for them to express their loyalty to their new Sovereign in a tangible form. They stated, with perfect truth, that the King was

\* *Parl. Hist.* i. 1030, and *S. P. Dom.* viii. 70.



under the necessity of providing for many extraordinary expenses connected with the commencement of a new reign, and that it was impossible, in a moment, to return to a peace expenditure. If the great questions of the session had received a satisfactory solution, it is not probable that these arguments would have been very strictly canvassed. As it was, the Commons remembered opportunely, that a considerable part of the subsidy which had been granted by the last Parliament of the late Queen had not yet been levied, and that it was contrary to all precedent to grant a fresh subsidy before the last one had been fully paid. They did not give any direct refusal, but the tone which the debate assumed was not such as to promise any result favourable to the Government. Upon hearing this, James, making a virtue of necessity, wrote a letter to the House, in which he informed them that he was unwilling that they should lay upon themselves any burden in order to supply him with money. He took care that this letter\* should be printed, so that his conduct might be laid before the public in as honourable a light as was possible.

CH. IV.

1604.

On the 7th of July the King came down to prorogue Parliament. After a few words of praise addressed to the House of Lords, he turned to the Commons, pleased to find an opportunity of venting upon them his long pent-up ill-humour.

Prorogation of Parliament.

‘I have more to say of you,’ he began, ‘my masters of the Lower House, both in regard of former occasions, and now of your Speaker’s speech. It hath been the form of most Kings to give thanks to their people, however their deserts were. Of some, to use sharp admonishment and reproof. Now, if you expect either great praises or reproofs out of custom, I will deceive you in both. I will not thank where I think no thanks due. You would think me base if I should. It were not Christian; it were not kingly. I do not think you, as the body of the realm, undutiful. There is an old rule,

Intemperate language of the King.

\* C. J., June 26, i. 246. There is a printed copy in the *S. P. Dom.* viii. 78.

CH. IV. *qui benè distinguit benè docet.* This House doth not  
 1604. so represent the whole Commons of the realm, as the shadow doth the body, but only representatively. Impossible it was for them to know all that would be propounded here, much more all those answers that you would make to all propositions. So as I account not all that to be done by the Commons of the land which hath been done by you, I will not thank them for that you have well done, nor blame them for that you have done ill. I must say this for you, I never heard nor read that there were so many wise and so many judicious men in that House generally; but where many are some must needs be idle heads, some rash, some busy informers.'

After scolding them for some time longer in the same flippant strain, he proceeded to compare the reception which his wishes had met with in England with the obedience which he had always found in Scotland. He must have counted largely on the ignorance of his hearers with respect to Scottish affairs, when he added:— 'In my government by-past in Scotland (where I ruled upon men not of the best temper), I was heard not only as a King, but as a Counsellor. Contrary, here nothing but curiosity, from morning to evening, to find fault with my propositions. There all things warranted that came from me. Here all things suspected.' He then burst out into an invective against them for their delays in the matter of the Union, and for their encouragement of Puritanism. 'You see,' he continued, 'in how many things you did not well. The best apology-maker of you all, for all his eloquence, cannot make all good. Forsooth, a goodly matter to make apologies, when no man is by to answer. You have done many things rashly. I say not you meant disloyally. I receive better comfort in you, and account better to be King of such subjects than of so many kingdoms. Only I wish you had kept a better form. I like form as much as matter. It shows respect, and I expect it, being a King, as well born (suppose I say it) as any of my progenitors. I wish you would use your liberty with more modesty in time to come. You must know now that the Parliament not sitting, the liberties are not sitting.'

My justice shall always sit in the same seat. Justice CH. IV.  
I will give to all, and favour to such as deserve it. In 1604.  
cases of justice, if I should do you wrong, I were no  
just King; but in cases of equity, if I should shew  
favour, except there be obedience, I were no wise  
man.\*

After this characteristic speech, Parliament was prorogued, and James left the House, little thinking what dangers attended the game which he was playing. The Commons dispersed over every county of England, no doubt with the fixed purpose, that in every English town, and through every English country-side, men should know in what light their most cherished interests were regarded at Whitehall.

Whilst the House of Commons was engaged in these stormy discussions, Convocation had been more calmly at work in drawing up a code of ecclesiastical law. The canons to which this body gave its assent had been prepared by Bancroft, who acted as President of the Upper House, the See of Canterbury being vacant. On the occasion of a discussion upon the use of the cross in baptism, Rudd, Bishop of St. David's, in a temperate speech, warned the House of the evil consequences which would inevitably follow upon the course which they were taking. The arguments of one man were not likely to have much weight in such an assembly. As far as in them lay, they bound down the whole of the clergy and laity of England to a perpetual uniformity. Every man was declared to be excommunicated who questioned the complete accordance of the Prayer Book with the Word of God. Nor were the terrors of excommunication only felt by those who shrunk from bearing spiritual censures. The excommunicated person was unable to enforce the payment of debts which might be due to him, and was himself liable to imprisonment till he confessed his error.

On the 16th of July, a proclamation appeared, in which permission was given to the Puritan clergy to retain their livings to the 30th of November. As soon

\* *S. P. Dom.* viii. 93.

CH. IV. as the time thus allowed for consideration had come to  
 1604. an end, they must either conform or submit to expulsion.

The Roy-  
 ston peti-  
 tion.

Shortly before the end of the term assigned to them, a small number of Puritans presented a petition to the King at his hunting seat at Royston. James, vexed at being thus taken unawares, told them to send ten of the wisest among them to the Council. The deputation did not gain much by this step, as they were sent back again, after being forced to give bail to answer for their conduct whenever they might be summoned.

Arch-  
 bishop  
 Bancroft.

On the 4th of December, Bancroft was consecrated Archbishop of Canterbury. If there had been any truth in the fond delusion of his admirers in the next generation, who traced all the troubles of the Church to the inefficient way in which his successor carried out his system, it would have been impossible to make a better choice. He did not, like Whitgift, persecute in the name of a state expediency. If he was not the first to adopt the belief that the episcopal system of the English Church was of Divine appointment, he was at least the first who brought it prominently before the world. With a full persuasion that he was engaged in repressing the enemies of God, as well as the disturbers of the Commonwealth, he felt no compunction in applying all his energies to the extirpation of Nonconformity. There were men in the Church of England, who, like Hutton, the Archbishop of York, felt some sympathy with the Puritans, although they did not themselves share their opinions. But Bancroft was swayed by no considerations of this nature. To him the notions of the Puritans were not only incomprehensible in themselves, but he was unable to understand how sensible men could talk such nonsense, except from factious and discreditable motives.\* In other respects he was well

\* Compare Hutton's letter (Strype's *Whitgift*, iv., App. No. 50) with the following sentence from one of Bancroft's (Wilkins' *Conc.* iv. 409):—'I have hitherto not greatly liked any severe course, but perceiving by certain instructions lately cast abroad, that the present opposition so lately constituted doth rather proceed from a combination of sundry factions, who in the pride of their mind are loath to be foiled, as they term it, than from any religious care or true conscience,' &c.

fitted for his office. He was anxious to increase the efficiency of the clergy, as far as was consistent with a due respect for uniformity, and, if it had lain in his power, he would have provided an orthodox and conforming preacher for every parish in England.

He had not been a week in his new office before he was ordered by the Council to proceed against those amongst the clergy who still held out.\* In a circular letter which he shortly afterwards addressed to the Bishops,† he directed that all curates and lecturers should be required, upon pain of dismissal, to subscribe to those articles which were imposed by the new canons. In the first of these the King's supremacy was to be acknowledged; in the second a declaration was to be made that the Prayer Book contained nothing contrary to the Word of God; and in the third the subscriber affirmed that the Thirty-nine Articles were also agreeable to the Word of God. The beneficed clergy were to be treated with rather more consideration. If they refused to conform, they were to be at once deposed, but those amongst them who were willing to conform, though they refused to subscribe, might be allowed to remain at peace. By this means, many would be able to retain their livings who, though they had no objection to perform as a matter of obedience the services enforced by the Prayer Book, were by no means ready to declare it to be their conscientious opinion that everything contained in that book was in accordance with Divine truth.

As may be supposed, this circular caused great consternation amongst the Puritan clergy and their favourers. It has been calculated that about three hundred‡ of the clergy were ejected for refusing to comply with the demands made upon them. The Bishops were

CH. IV.  
1604.

Proceed-  
ings  
against the  
Noncon-  
formists.

\* The Council to Bancroft, Dec. 10, 1604, Wilkins' *Conc.* iv. 408.

† Bancroft to the Bishops, Dec. 22, 1604, Wilkins' *Conc.* iv. 409.

‡ The number has been estimated as low as forty-nine; but the arguments in Vaughan's *Memorials of the Stuarts* seem to me conclusive in favour of the larger number. To the authorities quoted there may be added the petition of the Warwickshire ministers (*S. P. Dom.* xi. 68), who speak of twenty-seven being suspended in that county alone; though the Bishop expressed his sorrow for that which he was forced to do.

CH. IV. frightened at the numbers who refused subscription, but  
1605. the King urged them on.\*

The  
North-  
ampton-  
shire  
petition.

On the 9th of February, a petition in favour of the deprived ministers was presented to the King by four knights from Northamptonshire. It bore the signatures of forty-four gentlemen of the county.† The King was enraged. One sentence particularly exasperated him: the petitioners intimated that if he denied their suit, many thousands of his subjects would be discontented; an assertion which he looked upon as a threat. On the following day, he charged the Council to take steps against these daring men. Three days afterwards, the Chancellor appeared in the Star Chamber, and asked the judges if it was lawful to deprive nonconforming ministers, and whether it was an offence against the law to collect signatures for such a petition as that which had just been presented. To both these questions they answered in the affirmative.‡

It was discovered that the petition had been drawn up by Sir Francis Hastings, the member for Somersetshire. He was summoned before the Council, and required to confess that it was seditious.§ This he refused to do; but he was ready to acknowledge that he had done wrong in meddling with such matters out of his own county. He declared that in the sentence to which the King objected, he had no intention of saying anything disloyal. He was finally ordered to retire to his own country house, and to desist from all dealings in matters concerning the King's service. He was told that this was a special favour, as anyone else would have been 'laid by the heels.' Sir Edward Montagu and Sir Valentine Knightly met with similar treatment.

\* Chamberlain to Winwood, *Winw.* ii. 46.

† Petition in *S. P. Dom.* xi. 69. Among the signatures is that of Erasmus Dryden, grandfather of the poet. A little later (xi. 95) he asked pardon, and begged to be let out of the Fleet, to which he had been confined in consequence.

‡ — to the Bishop of Norwich, *Ellis*, 2nd ser. iii. 215. A fuller and more correct account is in a memorandum in the *S. P. Dom.* xi. 73, and printed in Coke's *Rep.* at the end of the Reports of Trinity term 2 Jac. I. This mistake has led some writers into the error of supposing that the judges were consulted before the delivery of the petition.

§ Exam. of Sir F. Hastings, *S. P. Dom.* xi. 74.

Still Bancroft was urging on the unwilling Bishops to deprive the Nonconformists till their dioceses were purified.\* The work was to be done, but it was not to be done roughly. The deprived ministers were to be allowed to retain their parsonages for two or three months, that they might have time to provide a new home for themselves and their families, now left without any visible means of subsistence.

These measures having been taken with the existing clergy, James hoped to be equally successful in providing that the Church should never be again troubled with similar difficulties. He commanded the Universities to administer a new oath to all their members, framed in a way that would render it impossible for any Presbyterian at least to take it.†

Whilst these stormy conflicts were raging, it is pleasant to remember that there was at least one work which was not interrupted by such bitter feuds: Puritans and Churchmen were able to sit down together to labour at that translation of the Bible which has for so many generations been treasured by Englishmen of every various creed, because in its production all sectarian influences were banished, and all hostilities were mute.

\* Bancroft to the Bishops, March 12, 1605, Wilkins' *Conc.* iv. 410.

† The King to Cranborne, April 8, 1605 (*S. P. Dom.* xiii. 75). The most prominent clause ran thus: 'Deinde me credere ac tenere formam ecclesiastici regiminis, quæ apud nos est, per Archiepiscopos ac Episcopos legitimam esse, et Sacris Scripturis consentaneam, novamque illam ac popularem, quæ presbyterii nomine usurpatur, utcunque alicubi non improbandum, Monarchiæ tamen certè institutæ minimè convenientem.'

CH. IV.  
1605.

The new  
oath for  
the Uni-  
versities.

Transla-  
tion  
of the  
Bible.

## CHAPTER V.

## GUNPOWDER PLOT.

CH. V.  
1604.

Winter  
summoned  
to London  
by  
Catesby.

He finds  
Wright  
with him.

Catesby  
proposes to  
blow up  
the Parlia-  
ment  
House.

THE proclamation directing the banishment of the Catholic priests appeared on the 22nd of February 1604. It was not long before this ill-judged step began to bear its bitter fruit. A few days afterwards,\* Thomas Winter, who was on a visit to his brother Robert, at Huddington, in the neighbourhood of Worcester, received a letter from his cousin, Robert Catesby, entreating him to meet him in London on business of importance. After some hesitation, he consented. He found Catesby at Lambeth, in company with John Wright, who had for many years been one of his most intimate associates. The three friends had endured persecution together, and had been engaged in plots and treasons of every description. It was Winter who, towards the end of Elizabeth's reign, had been sent into Spain with the hope of inducing the King to send an army for the invasion of England. Shortly after the accession of James, Wright's brother Christopher had been employed upon a similar mission. It is not improbable that in issuing orders for the banishment of the priests, the King was influenced by the vague rumours of these plots which had come to the ears of the Government. On Winter's arrival, Catesby begged him to join in striking one more blow for the Catholic cause. He told him that he had formed a design which could scarcely fail of success. He proposed, at once, to blow up the

\* It was in the beginning of Lent. Conf. of T. Winter, Nov. 23, *G. P. B.* In 1604 Ash Wednesday fell on the 21st of February, the day before the issue of the proclamation.



Parliament House with gunpowder. God would surely favour them in taking vengeance upon that accursed den from whence had issued all the evils under which the country and the Church were suffering. Winter acknowledged that such a course would strike at the root of the evil, but reminded him that in case of failure 'the scandal would be so great which the Catholic religion might hereby sustain, that not only our enemies, but our friends also, would with good reason condemn us.' It does not seem to have occurred to him that the scandal would be at least as great if they succeeded. Catesby, with that strange power of fascination which he exercised over all with whom he came in contact, soon put an end to his hesitation. Winter did not leave him until he had given him his promise to risk his life in this or in any other design upon which his cousin might determine.

CH. V.  
1604.

It was probably in deference to Winter's scruples that Catesby consented to his going over to Flanders, in order to obtain an interview with the Constable of Castile, who was on his way to England to take part in the negotiations for peace. He was to attempt to secure his intervention with the King on behalf of the English Catholics. If he was unsuccessful—and it is plain that Catesby had no great hopes from that quarter—Winter was to engage the services of an Englishman who was then in Flanders, and whose known character for courage and skill were such as to make him a desirable acquisition to the plotters. This Englishman was Guido Fawkes.

Winter  
sent into  
Flanders.

Winter left England early in April.\* He obtained nothing but vague promises from the Constable; and from all that he heard, he came to the conclusion that but little reliance could be placed upon the Spanish Government. Towards the end of the month he returned, bringing Fawkes with him, who had agreed to come on the general information that some design had been formed of which he was hereafter to learn the

Winter  
brings  
Fawkes to  
England.

\* About Easter, which fell on the 8th of April. Exam. of Fawkes, Nov. 8, 1605. *G. P. B.*

CH. V.

1604.

Accession  
of Percy  
to the plot.

particulars. Soon after Winter's return, they obtained the cooperation of Thomas Percy. He was a relative of the Earl of Northumberland, and, at this time, was acting as his steward. He was particularly displeased with the proclamation, as it was through his means that James had, before the death of Elizabeth, conveyed promises of good treatment to the English Catholics; and he therefore looked upon what he regarded as a breach of those promises as a personal insult to himself. His first words, as he burst into a room in which the four conspirators were sitting, were, 'Shall we always, gentlemen, talk, and never do anything?' Catesby took him aside, and telling him that he had a scheme in hand, proposed that they should all join in taking an oath of secrecy before he disclosed its particulars. For this purpose, these five men met shortly afterwards in a house behind St. Clement's, where they swore to keep any secrets which might be confided to them. They then went into another room in the same house, where they found Gerard, a Jesuit priest.\* Having first heard mass, they received the sacrament at his hands as an additional confirmation of their oath. He was however, if Fawkes is to be believed, himself ignorant of the plot. As soon as they were again alone, Percy and Fawkes were made acquainted with the proposed scheme. It was agreed that a building abutting upon the Parliament House should be hired by Percy. Fawkes who, from his long absence from England was not in danger of being recognised, assumed the character of Percy's servant, and took the name of John Johnson. The agreement for the lease of the house was signed on the 24th of May.

They take  
an oath of  
secrecy.Motives  
for en-  
gaging in  
the con-  
spiracy.

It is clear, therefore, from these dates that the five conspirators entered into the plot entirely upon religious grounds. As far as the laity were concerned, they had not known for many years a time in which they had been treated with less injustice. But the banishment of the priests was felt as an act of oppression, the remembrance of which no amount of material prosperity

\* Fawkes' Exam. Nov. 9, 1605, *G. P. B.*

could wipe away. Perhaps, too, the English Catholics judged, with that sure instinct which belongs to the oppressed, that the banishment of the priests would sooner or later be followed by a renewal of the exactions upon the laity. There were already signs that this would be the case. Even at the conference at Hampton Court, James had assented to the more frequent issue of writs for the imprisonment of excommunicated recusants. In the speech with which he opened Parliament,\* he had expressed his determination that the Catholics should gain over no new converts. On the 17th of May,† before the actual signature of the lease, but too late to have any weight in the deliberations of the conspirators, even if they had become acquainted with the fact, he made use of words in addressing a deputation of the House of Commons which showed that the leniency with which the recusant laity were treated would not be of long continuance. Complaining of the increase of Papists, he recommended the House to provide ‘laws to hem them in.’‡

CH. V.  
1604.

Change in  
the views  
of the  
King.

This increase of Papists was an object of terror to the feeble mind of James. His natural good nature led him to desire that there should be no persecution; but he also desired that not a single convert from Protestantism should be made. He forgot that the whole of that class of persons who were Catholics at heart, but who preferred an occasional visit to the parish church to the payment of a fine or the seizure of their lands, would relapse into recusancy the moment that those fines were remitted. As might have been expected, the number of recusants had increased considerably since the death of Elizabeth.§ The Catholics themselves boasted that their numbers had been augmented by ten thousand converts,|| and the sense of growing numbers gave

Increase of  
recusants.

\* On the 19th of March, and therefore, not till after the three original plotters had joined in the design.

† On the 18th of April, a Bill had been brought in in the Commons, ‘For the retaining of His Majesty’s subjects in their due obedience.’ Whatever its contents were, there seems to have been no anxiety to push it on.

‡ C. J., May 18, i. 214.

§ From Jan. to Aug. 1604, the number in the diocese of Chester increased from 2,400 to 3,433.—*State of the diocese of Chester, S. P. Dom.* ix. 28.

|| *Account of a conversation, &c., May 18, 1604, S. P. Dom.* viii. 30.

CH. V. them a confidence which they had not before possessed.\*

1604.  
Act  
against  
Recusants

On the 4th of June, a Bill for the due execution of the statutes against Jesuits, Seminary Priests, and Recusants was introduced into the House of Lords.† In spite of the opposition of Lord Montagu, who was committed to the Tower for the strong language which he not unnaturally used, it was sent down to the Commons, and finally passed both Houses, though not without undergoing considerable alterations. All the statutes of the late reign were confirmed, and in some points they were made more severe. The Catholics were, of course, anxious that the King should refuse his assent to the Bill. A petition‡ was presented to him by the priests, in which they offered to take an oath of allegiance. A much more important petition§ was presented by a number of the laity, in which they expressed their readiness to become responsible for the conduct of such priests as they might be permitted to have in their houses. This golden opportunity of coming to an understanding with his Catholic subjects was thrown away by James. He gave his assent to the Bill. He told the French Ambassador, however, that he had no present intention of putting the Act in force, but that he wished to have the power of repression if any necessity should arise.|| As an assurance of the sincerity of his intentions, he remitted to the sixteen gentlemen who were liable to the £20 fine the whole sum which had fallen due since the Queen's death, as a guarantee that he would never call upon them for arrears.\*\*

carried  
into effect  
by some of  
the judges.

But in spite of James's assurances, the persecuting Act was carried into effect by some of the judges in the course of the summer assizes. At Salisbury one Sugar was condemned and executed, merely as being a semi-

\* One priest is reported to have been talking to another of an insurrection, of seizing Chester, &c.—*Exam. of Hacking*, May 20, 1604, *S. P. Dom.* viii. 34.

† 1 Jac. I. cap. 4.

‡ Catholic Priests to the King, July (?) *S. P. Dom.* viii. 125.

§ Petition Apologetical, p. 34.

|| Beaumont to the King of France, July <sup>5</sup>/<sub>15</sub> 1604, *King's MS.* 126, fol. 418 a.

\*\* July 30, Pat. 2 Jac. I. part 22.

nary priest, and a layman suffered a similar fate on the charge of aiding and abetting him in the exercise of his functions.\* At Manchester several persons suffered death.† It is probable that these barbarities were the work of the judges themselves. It is quite in accordance with James's character that he should have forgotten or neglected to give positive orders to avoid bloodshed; and the fact that he did give such orders in the following year, even when he was urging the judges to put in force the penal laws, is a presumption against his having been the author of these atrocities.‡

CH. V.  
1604.

In September another attempt was made to get rid of the priests. A commission was appointed to preside over their banishment, a measure which was not likely to prove effectual with men who were determined to make their way back again in spite of all obstacles. Twenty-one priests and three laymen, who were lying in prison until they were removed, addressed to the Council a dignified and respectful letter in which they complained of the injustice of the treatment which they had received, and declared that they did not consider themselves bound to remain abroad by any feeling of gratitude for their release.

Sept. 5.  
Commission to preside over the banishment of the priests.

Two months later a circumstance occurred which roused great indignation among the Catholics. Thomas Pound, a Lancashire Catholic, who had suffered imprisonment in the late reign for his religion, took up the case of the unfortunate persons who had suffered at the

Pound's case.

\* Challoner's *Missionary Priests*, 1742, ii. 44.

† Jardine, *Narrative of the Gunpowder Plot*, p. 45, from the Rushton Papers. He asserts that the judges, before proceeding on this circuit, received fresh instructions to enforce the penal statutes. But here, and in many passages in the early part of the book, he has been misled by following other writers in the chronological mistake of supposing that Feb. 14, 1604, in *Wiss.* ii. 49, meant Feb. 14, 1603-4.

‡ A passage in a letter addressed to James by the Constable of Castile, looks as if the judges were supposed to be in fault. He asks, 'ut . . . præcipere dignaretur ne Catholici in regnis suis ob causam religionis ullam vitæ vel fortunarum subirent discrimen; abstinerentque ministri Regis a sanguine sacerdotum; et de transgressionibus Catholicorum non inferiores iudices, qui sæpè odio religionis veros legum sensus detorquent, sed graviores ac prudentiores a Majestate Vestra eligendi cognoscerent.'—*S. P. Spain*, <sup>AUG. 31,</sup> <sup>SEPT. 10,</sup> 1604. Bacon seems to imply similar conduct on the part of the judges in Elizabeth's reign. *In fel. mem. Eliz.* Works, vi. 301.

CH. V.  
1604.

late assizes in the northern circuit. Serjeant Phelips had condemned a man to death simply 'for entertaining a Jesuit,' and it was said that he had declared that, as the law stood, all who were present when mass was celebrated were guilty of felony.\* Pound presented a petition to the King, on account of which he was arrested, and, by order of the Privy Council, he was prosecuted in the Star Chamber. According to one account, he merely complained of the persecution which the Catholics were undergoing, and of the statements made by Phelips at Manchester. There is, however, reason to suppose that he charged Phelips with words which did not in reality proceed from him.† Whatever his offence might have been, the sentence of the Star Chamber was a cruel one. After browbeating and abusing him for some time, the Court condemned him to a fine of a thousand pounds, and to be pilloried at Westminster, and again at Lancaster. Whether he underwent his punishment at Westminster, we have no means of knowing‡ with certainty. He was taken to Lancaster at the spring assizes of the following year, and having there made submission, he was probably allowed to return home. His fine was first reduced to a hundred pounds,§ and in the end was remitted altogether.||

Fines for  
recusancy  
again re-  
quired.

At some time during the autumn of 1604, it was resolved to take another downward step in the career of persecution. In spite of the assurance given by the Council to the Catholic gentlemen, towards the end of 1603, it was now determined that the fines for recusancy

\* More to Winwood, Dec. 2, 1604, *Winw.* ii. 36. See Jardine, p. 45.

† At least I cannot understand in any other way the words in the proceedings at York and Lancaster, *S. P. Dom.* v. 73. The true date is in the spring of 1605. It is calendared among the undated papers of 1603. The passage is 'First, Mr. Pound there,' i.e. at Lancaster, 'being resolved both by the Attorney of the Wards, and Mr. Tilsley, to whom he appealed in the Star Chamber for testimony, and by all other the Justices of the Peace at the former and this assizes present, of the untruth of his information to His Majesty, he thereupon confessed his fault.'

‡ Compare Eudœm on Johannes. *Col. Ag.* 1610, p. 238, with Abbot's *Antilogia*, fol. 132 b.

§ *S. P. Dom.* xliii. 52.

|| At least I have been unable to find any trace of its payment in the Receipt Books of the Exchequer.

should be again exacted. The unfortunate men had given no pretext for this harsh treatment. The only motive which can be assigned is James's extreme want of money, and his carelessness in fulfilling an engagement which helped to keep his pockets empty.\* Still there was much wanting to fill up the measure of the Elizabethan persecution. Thirteen wealthy gentlemen alone suffered, whilst as yet no step was taken to trouble those who were not possessed of sufficient wealth to expose them to the monthly fine.

Such half measures could not last long. Those who were most concerned in watching the course taken by the Government must have known that at any moment they might be exposed to all the weight of the old system, the terrors of which were still suspended over their heads. An event which occurred in the beginning of 1605 brought the blow down upon them.

Towards the end of 1604 Sir James Lindsay was ready to proceed to Rome. He had been well received by James, who had granted him a pension, and he was entrusted with general messages of civility to the Pope, which were backed by the paper of instructions—a copy of which must have found its way to Rome some months previously.† As he was on his journey, he gave out that he was employed by James to carry a message to the Pope, though he acknowledged that he was not travelling in any public capacity.‡ On his arrival, he saw Cardinal Aldobrandini, who introduced him to the Pope.§ According to a report which reached Paris, he

CH. V.  
1604.

Sir James  
Lindsay  
goes to  
Rome.

\* The exact date of the resumption of these payments is Nov. 28, 1604, though the measure had probably been resolved on some time before. The fact that the fines were renewed before the payments for lands were demanded, is placed beyond doubt by the Receipt Books of the Exchequer. The payments were made by the same thirteen persons who had paid at James's accession, and were reckoned from the 30th of July, the day of the pardon of arrears.

† Having been delivered by Parry to the Nuncio at Paris.

‡ This seems to be the best way of reconciling the statement of Parry (*S. P. Fr.*, Jan. 9, 1605), who says that in Germany and Savoy Lindsay had qualified himself 'with the title of His Majesty's Ambassador,' with Lindsay's own declaration at Venice, that he had no commission from the King.—Vileroi to Beaumont, Dec.  $\frac{12}{24}$ , 1604.

§ Aldobrandini to the King, Jan.  $\frac{13}{22}$ , 1605, *S. P. Italy*.

CH. V.  
1605.

The Pope  
expects to  
convert  
England.

gave out that the Queen was already a Catholic in heart, and that James was ready to follow her example if only he could have enlightenment on some particular points, such as that of the Pope's supremacy over kings. According to his own account, he did not say a word beyond his instructions.\* At all events, the Pope gathered from Lindsay that something might be done with James. With his fervent hope of winning back England to the See of Rome, and his thorough ignorance of what the feelings of Englishmen really were, he was ready to catch at the slightest symptom of a change. There was a passage in the instructions which may have been sufficient for a sanguine mind, especially when it had received the assistance of Lindsay's comments. James had declared that he would never reject reason when he heard it, and that he would never be deterred by his own 'preoccupied self-opinion' from receiving anything which might be proved to be 'lawful, reasonable, and without corruption.' Clement had heard something very like this before. In the mouth of Henry IV. such words had been the precursors of conversion, why should not the same thing take place again? The Pope was overjoyed: he immediately appointed a committee of twelve cardinals for the purpose of taking into consideration the condition of England.† Cardinal Camerino talked of sending to the King a copy of Baronius's History, which had been recently published. The Pope ordered that prayers, in which he himself joined with great earnestness, should be offered up for the welfare of the King and for the conversion of England.‡ Lindsay was informed that the cardinals had recommended that some one should be sent into England, but that they had not been able to decide whether they should send 'a legate, a nuncio, or some secular gentleman.'

\* Lindsay to the King, Jan. <sup>13</sup>/<sub>22</sub>, 1605, *S. P. Italy*. Compare Villeroi to Beaumont, Dec. <sup>13</sup>/<sub>22</sub>, 1604.

† With Lindsay's letter, compare Parry to Cranborne, Feb. 7 (true date, dated in orig. Jan. 7), 1605, *S. P. France*.

‡ Lindsay to the King, <sup>Jan. 26</sup>/<sub>Feb. 4</sub>, 1605, *S. P. Italy*. For Lindsay's account of himself, see also Lindsay to Semple, Sept. 18, 1605, *S. P. Spain*.



James was greatly annoyed. For a week or two all Europe believed that he was about to renounce his faith. He immediately directed his Ambassador at Paris to declare that he had no intention of changing his religion. If the Nuncio brought him Cardinal Camerino's present, he was to take it rather than give offence by refusing; but he believed that it was all a trick to make men suppose that he was engaged in secret negotiations with Rome.

CH. V.  
1605.

Effects of  
the news  
upon  
James.

These rumours reached England at an unfortunate time. During the winter James had been employing his energies in an attempt to suppress Puritanism, and was therefore already labouring under a suspicion of a leaning towards Popery.\* His principles were once more tried, and they gave way beneath the test. He would prove the purity of the motives which led him to persecute the Puritans by adding to his offence the persecution of the Catholics also.

He made his determination known on the 10th of February. On that day he was to address the Council on the subject of the Northamptonshire petition. 'From the Puritans,' we are told by one who was probably an eye-witness of the scene, 'he proceeded to the Papists, protesting his utter detestation of their superstitious religion, and that he was so far from favouring it, as, if he thought that his son and heir after him would give any toleration thereunto, he would wish him fairly buried before his eyes. Besides, he charged the Lords of the Council and the Bishops present, that they should take care themselves, and give order to the judges of the land, to the justices and other inferior officers, to see the laws speedily executed with all rigour against both the said extremes.'† Three days later, the Chancellor

He deter-  
mines to  
put in force  
the penal  
laws.

\* 'I wish, with all my heart, that the like order were taken, and given not only to all bishops, but to all magistrates and justices, to proceed against Papists and recusants, who, of late, partly by this round dealing against Puritans, and partly by reason of some extraordinary favour, have grown mightily in number, courage, and influence.'—Archbp. Hutton to Cranborne, Dec. 18, 1604, *Winw.* ii. 40.

† *Ellis*, 2nd ser. iii. 215. — to the Bishop of Norwich, Feb. 14, 1605. Chamberlain to Winwood, Feb. 16, 1605, *Winw.* ii. 48. In the printed copy the date is incorrectly given as Feb. 26.

CH. V. charged the judges to put the laws into execution at  
1605. the ensuing assizes, only taking care to shed no blood. A similar intimation was conveyed by the Recorder of London, to the Lord Mayor and Aldermen.

The effect of these admonitions was not long in showing itself. On the day after the Lord Mayor had been informed of the King's wishes, forty-nine persons were indicted at the sessions which were then being held for London and Middlesex. In different parts of England five thousand five hundred and sixty persons were convicted of recusancy.\*

Fines  
actually  
levied.

It must not, however, be supposed that anything like this number were actually called upon to surrender the two-thirds of their lands required by the law. The number of those who actually suffered in consequence of these indictments was one hundred and twelve. There were also sixty-five persons whose lands had been previously sequestered. The rents of the lessees of these lands had been allowed to fall into arrear, and these arrears were now demanded. In the year 1606, when these arrangements had come into full operation, many of those whose lands had paid in the previous years were exempted from payment. The total number of persons whose lands were charged in that year was one hundred and sixty-two. Of this number, twenty-eight had paid even in the exceptional year 1604, forty-two had been liable to pay, but had been excused, and the remaining ninety-two had been fresh additions to the list since the spring of 1605.† The amount received from this source, which in 1604 had been £1,132, rose in 1606 to £4,397.

\* See the papers printed in Tierney's *Dodd*. iv. App. 92. The originals are in the *S. P. Dom.* xii. 80 and liv. 65. Mr. Tierney has ante-dated the first of these papers by a year. The latter, which is placed in the calendar among the undated papers of 1606, may be restored to its true place by comparing it with v. 73: the date of which is fixed by the mention of Pound to the spring of 1605.

† These calculations are based upon the Receipt Books of the Exchequer. The difficulty of collecting so many names and figures from a series of accounts, extending over six thick folio volumes, is so great, that it is quite possible that a few names may have escaped me. I am, however, sure that any errors of this kind are not of sufficient consequence to affect the substantial accuracy of the results. The subsequent calculations have been made in the following manner:—In 1604, 37 persons were charged, and arrears were afterwards paid by the lessees of the lands of 65 persons. Two names appear in both lists, being charged for different pieces of lands

CH. V.  
1605.

Besides these additions to the list of those who were liable to payments for land, one name had been added to those who were called upon for the statutory fine of £20 a month. The number of those who made this high payment was now fourteen, till the death of Sir Thomas Tresham, in September 1605, again reduced it to thirteen.\*

A smaller amount was obtained by the seizure of the goods and chattels of recusants. This in 1605 reached £368, in 1606 £472. It must have been a particularly annoying mode of obtaining money; and it is plain, from the smallness of the sums which were levied from each person, that it was regarded as a means of rendering the poor Catholics as uncomfortable as possible.

The arrears which were called for in 1605† reached the sum of £3,394; but as the yearly or half-yearly rent due in that year was reckoned together with the payments which had lapsed in former years, a sum of

Accounting for these, we have a total of 100, as the number of those liable previously to February 1605. Of these, 70 only reappear in 1606, and there are 92 new names. In 1605, there were 38 new names, of which 18 reappear in 1606, and 20 do not reappear. Adding this 20 to 92, we have 112 as the highest possible number of persons losing their lands in consequence of indictments in 1605. Persons indicted after Easter 1606 would not be liable to payment till after Easter 1607. On the other hand, it is not impossible that some of these 112 may have been possessed of lands which had been leased out in the Queen's times, though for some reason they had not paid in 1604, and had not been called upon for arrears. These arrears were, of course, paid by the lessees, though they probably fell eventually on the owners. Mr. Jardine's figures, (*Narrative*, p. 19) are quite erroneous. He must have been led astray by some inefficient copyist; as the figures in the MS. from which they are taken are quite plainly written; see *Notes and Queries*, 2nd series, ix. 317.

\* Though sixteen were liable, only thirteen had actually paid at any time since James's accession.

† In this statement, the years mentioned are financial years, commencing on Easter-day. I have no wish to say anything which may diminish the reprobation with which the whole system must be regarded, but it is certainly rather curious to contrast the real facts of the case with the exaggerations of Lingard, who has been more or less closely followed by succeeding writers. He says that the £20 fines were demanded, 'not only for the time to come, but for the whole period of the suspension; that 'the least default in these payments subjected the recusants to the forfeiture of all his goods and chattels, and of two-thirds of his lands.' What happened was bad enough, but the £20 men were never called upon for arrears, and, as far as I have been able to trace the names, the forfeitures of goods and chattels were only demanded from those from whom no lands had been seized. Mr. Jardine, amongst others, adopted these erroneous statements, *Narrative of the Gunpowder Plot*, 23.

CH. V. £2,000 will be more than enough to cover all that can  
1605. properly be called arrears.

The Catholic gentry must have been especially ag-  
grieved by the knowledge that much of the money thus  
raised often went into the pockets of courtiers. For  
instance, the profits of the lands of two recusants were  
granted to a footman,\* and this was by no means an  
isolated case.

Protestant  
view of the  
case.

If the victims were dissatisfied, zealous Protestants,  
on the other hand, doubted whether enough had been  
done. When the judges were leaving London for the  
summer assizes, James again laid his commands upon  
them not to spare the Papists. Upon this, Sir Henry  
Neville† wrote to a friend, telling him that it was  
'generally feared that there' would 'be none of the  
priests executed, without which,' he doubted, 'all the  
other provision' would 'be fruitless; for they are the  
root and fountain of all the mischief. . . . For my part,'  
he proceeded to write, 'I am persuaded they are irre-  
coverable, and will never be satisfied nor made sure to  
the State unless they have their whole desire at the full.  
And, however they pretend now to seek only impunity,  
yet, that obtained, assuredly they will not rest there,  
till they have obtained a further liberty. Therefore,  
if we mean not to grant all, we were as good deny all,  
and put them to an issue betimes, either to obey or not,  
lest it break out *alienore tempore*, when they be more  
prepared, and we peradventure entangled in some other  
business.'

Proceed-  
ings of the  
conspira-  
tors.

Little as these proceedings had to do with the origin  
of the conspiracy, they must have done much to irritate  
the minds of those who were engaged in it, and to  
confirm them in their evil purpose. Shortly after the  
prorogation the five plotters separated, and went into  
the country, having first agreed to meet in London at  
Michaelmas. It was then understood that Parliament

\* Worcester to the Council, June 17, 1605, *S. P. Dom.* xiv. 43. The money was not given to the grantee till after it had been paid into the Exchequer, so that the owner of the land possibly knew nothing of his own particular case; but he must have had a general knowledge of these proceedings.

† Neville to Winwood, *Winw.* ii. 77.

would reassemble in February, and they calculated that this would give them ample time to make their preparations. In order to have a second place in which to collect the necessary materials, they hired the house at Lambeth in which Catesby usually lodged. They gave it into the charge of Robert Keyes,\* a gentleman who had been living at the house of Lord Mordaunt, a Catholic nobleman, where his wife had the care of the education of the children. Of course, he was informed of the plot, and sworn to secrecy. When the time appointed for commencing operations arrived, Fawkes was sent up to London to examine the ground. He found that the house which had been taken by Percy had been selected by the commissioners for the Union as the place in which their meetings should be held. This unexpected obstacle delayed the progress of the scheme till the 11th of December. As soon as they were able to obtain access, the conspirators commenced labouring at the wall of the Parliament House. They found it harder work than they had expected. The wall was nine feet in thickness, and its solidity was so great that it was with much difficulty that they were able to penetrate it at all. They worked steadily for a whole fortnight, but when Christmas Eve arrived, they found that they had made but little way.

CH. V.  
1604.

Solidity of  
the wall.

As was natural, they often talked over their plans during the intervals of work. They sincerely hoped that the Prince of Wales might be with his father at the opening of the session, in which case he would be involved in a common destruction with him. Percy, who was now a gentleman pensioner, and, as such, had access to the Court, promised to secure the person of Prince Charles. The Princess Elizabeth, with the exception of an infant princess, the only other child of the King, was being brought up in the family of Lord Harington, at Combe Abbey, in the neighbourhood of Coventry, and she was consequently within reach of the residence of Catesby's mother, at Ashby St. Legers,

Plans of  
the con-  
spirators.

\* Keyes' Examination, Nov. 30, 1605, *G. P. B.* He there says that he was informed a little before Midsummer.

CII. V.  
1604.

in Northamptonshire. This would make it comparatively easy to obtain possession of the child. With this advantage, and with a little money and a few horses, these sanguine dreamers fancied that they would have the whole of England at their feet.

Robert  
Winter  
and John  
Grant in-  
formed of  
the plot.

Whilst they were still working at the wall, news was brought to them that Parliament was prorogued till October. Upon this they determined to give themselves a little rest. During this interval, Catesby went to Oxford, and sent for Winter's elder brother, Robert, and for John Grant, who had married a sister of the Winters.\* Robert Winter's house at Huddington, and Grant's house at Norbrook, in Warwickshire, were admirably suited for the carrying out of their future operations. After swearing them to secrecy, Catesby told them what he was doing. Winter made several objections, but Catesby's irresistible powers of persuasion were again brought into exercise, and Winter left him, saying, that it was a dangerous matter, but for his oath's sake, and for the love that he bore to his cousin, he would not reveal it. Bates, Catesby's servant, had been already admitted to the secret. His master, seeing that he was evidently suspicious of what he heard and saw, thought it prudent to confide the whole matter to him;† but he was never allowed to take any prominent part in the conspiracy.

Bates joins  
the plot-  
ters.

1605.  
Christo-  
pher  
Wright  
admitted.

In the beginning of February they again commenced operations. Finding the work as hard as ever, they sent for Wright's brother Christopher, to share it with them. His devotion to the cause was well known, and they were certain to find in him a faithful confederate. They sent for the gunpowder which was stored at Lambeth, and were thereby enabled to release Keyes from his duty of watching it, and to employ him in digging at the wall.‡ In spite of all difficulties, they

\* Examination of R. Winter, Nov. 30, 1605, *G. P. B.* Examination of J. Grant, Jan. 17, 1606, *G. P. B.* R. Winter to the Lords Commissioners, Jan. 21, 1606, *G. P. B.*

† In his Examination (Dec. 4, 1605, *G. P. B.*), he said that he was told about a fortnight less than a twelvemonth ago.

‡ Fawkes, in his deposition of Nov. 8, 1605, *G. P. B.*, gives the names of the seven gentlemen of name and blood who worked at the mine, and says

worked on for another fortnight. It was not an easy task, getting through nine feet of wall. Besides their other difficulties, the water flowed in and hindered them in their work. About the middle of the month they again desisted from their labour.

Two or three weeks later they prepared for another effort. One day as they were working, a rustling sound was heard. Terrified lest their proceedings had been discovered, they sent Fawkes to find out the cause of the noise. He returned with the intelligence that it proceeded from a Mrs. Bright, who was selling off her stock of coals in an adjoining cellar. This cellar, as they found, ran under the Parliament House, so that it would be exactly suited for their object. Mrs. Bright agreed to sell the lease to them. This lease she held from a man named Whynniard, who was also the landlord of Percy's house. Percy told him that he required additional accommodation for his coals, as he intended to bring his wife to London.

CH. V.  
1605.

The conspirators hear of a cellar that will suit them.

Their work being thus lightened, they proceeded to open a door between the house and the cellar,\* through which Fawkes carried the twenty barrels of powder which had been brought from Lambeth. He placed upon the barrels several bars of iron, in order to increase the effect of the explosion. The whole was covered over with a thousand billets of wood and five hundred faggots. As soon as this was done, they all dispersed till October, when they expected that Parliament would meet.

During the course of the summer, the growing discontent of the Catholics may be traced by the renewal of the informations which from time to time reached the Government of the suppressed dissatisfaction which here and there came to the surface. Men went about with wild talk of insurrections and revolutions, and predicted to their Protestant neighbours the near

Discontent among the Catholics.

that the last who was admitted was R. Winter. The indictment charges Keyes with working, and not Winter. The fact that the gunpowder was removed 'about Candlemas,' makes it probable that Keyes worked. R. Winter seems to have been during this time at Huddington.

\* Examination of Fawkes, Nov. 5 and 8, 1605. *G. P. B.*

CH. V.  
1605.

approach of the day when blood would again flow for the cause of Holy Church.\* In Herefordshire, the Sheriff came into actual collision with a body of Catholics, who were especially numerous in that county.† In August and September, in spite of the King's charge, three laymen were executed for attempting to convert their neighbours.‡

Proceed-  
ings of  
Fawkes,

Meanwhile the conspirators had not been idle. When they left London in the spring, Fawkes was sent over to Flanders, where he imparted the plot to the Jesuit Owen, who 'seemed well pleased with the business.'§ He advised him not to acquaint Sir William Stanley with the conspiracy, but promised that as soon as it had taken effect, he would inform him of all the particulars, and would engage his assistance in the insurrection which was expected to break out in England. Fawkes returned to London about the end of August.

and of  
Catesby.

At this time, Lord Arundel of Wardour, a Catholic nobleman, who had seen much service on the Continent, was levying a body of men in England for the service of the Archduke. In forwarding this object, Catesby was particularly busy. He contrived that several of the officers should be appointed from amongst his friends,|| and entered into an understanding with them that they should be ready to return to England whenever the Catholic cause required their assistance. In September, he sent a certain Sir Edmund Baynham on a mission to the Pope. It is doubtful how far the particulars of the plot were revealed to him. He was to be on the spot, in order that, as soon as the news arrived at Rome of the destruction of the tyrants, he might win the Pope over to second the further efforts of the conspirators. Of the three priests who were afterwards inculpated, Gerard certainly was aware that some scheme of unusual importance was on hand, though

The three  
priests.

\* Depositions as to seditious speeches uttered by John Parker, Aug. 31, 1605, *S. P. Dom.* xv. 43.

† Bishop of Hereford to Salisbury, June 22, 1605, *S. P. Dom.* xiv. 52.

‡ Challoner's *Missionary Priests*.

§ T. Winter's Confession, Nov. 23, *G. P. B.*

|| Jardine, 61, from Greenway's MS. Compare Birch's *Historical View*, p. 251.



it was asserted that he was not made acquainted with the particulars. Greenway both knew of the plot and favoured its execution; whilst Garnet, the Superior of the Jesuits in England, had become acquainted with it at least as early as in July. He always denied that he looked upon the project otherwise than with the utmost abhorrence; but circumstantial evidence throws considerable doubt on this assertion.

CH. V.  
1605.

In September, Winter and Fawkes were busy bringing in fresh barrels of powder, to replace any which might have been spoiled by the damp.\* Towards the end of the month, they heard that Parliament was again prorogued to the 5th of November, upon which they both returned to the country for a few weeks.

Parliament prorogued to the 5th of November.

Whilst they were in London, circumstances occurred which eventually ruined the whole undertaking. As long as the only question had been the selection of men fit to take part in the plot, Catesby's discretion had been sufficient to guide him to the right persons; but for the execution of their further designs money was requisite as well as men, and money was now running short with the conspirators. To engage a wealthy man in the plot was as dangerous as it would have been to engage a very poor man. From the existing system of fines the poor suffered nothing, because they had nothing to lose; the rich suffered little, because they could afford to pay. Nevertheless it was a risk which must be run. Without horses and arms and ready money no insurrection had a chance of success, and for these requisites the pockets of the conspirators were unable to supply the necessary funds. In the course of September, Percy met Catesby at Bath, where the two friends discussed the difficult question together.† It was at last decided that Catesby should be intrusted with the selection of persons to whom he might confide the secret. His choice fell upon three men, two of them, Sir Everard Digby and Ambrose Rokewood, were very young; it was perhaps hoped that their youth would render them sufficiently

Want of money.

\* Examination of Fawkes, Nov. 8, 1605. *G. P. B.*

† T. Winter's Confession, Nov. 23, 1605, *G. P. B.*

CH. V.  
1605.

enthusiastic to set aside prudential considerations. The third, Francis Tresham, was indeed older, but his wealth offered a powerful inducement to men with whom money was an object; and his participation in previous intrigues gave some guarantee that he would not be unwilling to engage in the present design.\*

Ambrose  
Roke-  
wood.

Ambrose Rokewood, of Coldham Hall, in Suffolk, had long been an intimate friend and an ardent admirer of Catesby. At first he expressed some reluctance to take part in the plot, because he feared that it would be impossible to save those Catholic Peers who would be present at the opening of the Session. Catesby told him that a trick would be put upon them, so that he need have no fears on that score.† Rokewood then said that 'it was a matter of conscience to take away so much blood.' Catesby assured him that he had been resolved by good authority that the deed was lawful, even if some innocent men should lose their lives together with the guilty. Upon this Rokewood gave up his scruples. In order to be at hand when he was wanted in November, he took a house at Clapton, in Warwickshire.‡

Sir  
Everard  
Digby.

Early in October,§ Catesby was residing in the neighbourhood of Wellingborough with Digby. After raising some objections, he too yielded to the fascination, and threw himself headlong into the plot.|| A suitable house was procured for his temporary residence at Coughton, in Warwickshire, a place lying on the borders of Worcestershire. What was still more to the purpose, he offered £1,500 for the good of the cause.

Francis  
Tresham.

The last person to whom the secret was revealed was Tresham, who had, upon the death of his father in

\* According to Jardine, p. 62-66, Digby was twenty-four, and Rokewood twenty-seven. Wood makes Tresham about thirty-eight. *Ath. Or. Bliss*, i. 755.

† Examination of Rokewood, Dec. 2, 1605, *G. P. B.*

‡ Examination of R. Wilson, Nov. 7, 1606. He says the lease was asked for about ten days before Michaelmas.

§ About Michaelmas (Examination of Sir E. Digby, Nov. 19, *S. P. Dom.* xvi. 94). About a week after Michaelmas (Examination of Sir E. Digby, Dec. 2, *G. P. B.*)

|| See his letters in the Appendix to the Bishop of Lincoln's *Gunpowder Plot*, 1679.

September, inherited the estate of Rushton, not far from Kettering. He was a cousin of Catesby and the Winters, and had taken part with them in Essex's rebellion, as well as in the negotiations with Spain shortly before the Queen's death.

CH. V.  
1605.

There were now thirteen persons who were intrusted with all the details of the scheme. But it was also necessary to take some measures in order that a large number of malcontents might be ready to join the insurrection on the first news from London. Accordingly, it was proposed that Digby should hold a great hunting match at Dunchurch on the day of the meeting of Parliament, to which a large company of the Catholic gentry of the Midland Counties were to be invited. As soon as the news arrived that the explosion had succeeded, they were to be urged to seize the Princess Elizabeth, who was at Combe Abbey, within an easy ride of eight miles. Either she or Prince Charles was to be proclaimed as the new Sovereign, the nation was to be won over by the announcement of popular measures, and the Protestant Church would be at the feet of the conspirators.

Preparations for the insurrection.

In the midst of all these sanguine anticipations one difficulty presented itself, how were the Catholic Lords to be prevented from attending the opening of Parliament? This difficulty had long been felt by Catesby and his companions, but it presented itself with increased force as the moment for action approached. There were those among the conspirators who were connected by special ties with some of the Peers: Percy was in the service of his kinsman, the Earl of Northumberland; Lord Mordaunt had intrusted his children to the charge of Keyes' wife; Lord Stourton and Lord Monteagle had both married sisters of Tresham. It would be impossible for any Catholic to regard with complacency any act which would involve in ruin Lord Montagu, who had dared to stand forth as the champion of his religion in the House of Lords, or the young Earl of Arundel, the son of that Earl who was honoured above all the Catholic martyrs of the reign of Elizabeth, and who had by James's favour been

The Catholic Lords must be warned.

CH. V.  
1605.

lately restored to his father's honours. Many were the appeals which had been made to Catesby, who was the guiding spirit of the plot. Sometimes he answered that the nobility were but 'atheists, fools, and cowards;' at other moments he assured his friends that means should be taken to warn them. It is probable that in some way or other all the Catholic Peers were advised to absent themselves from the opening of the Session.

Tresham  
wavers.

Among the plotters was one who had never entered heart and soul into the matter. Tresham had, by his father's death, lately succeeded to a large family property, and the temper of a man who has just entered into the enjoyment of considerable wealth is by no means likely to fit him for a conspirator. Catesby's sagacity had here deserted him, or had perhaps been overpowered by his eagerness to share in Tresham's ready money. If we are to believe Tresham himself,\* he at once remonstrated with his cousin, and reminded him that even if they succeeded they would be exposed to the fury of the enraged nation. He pointed out to him that when the organisation of the Government was destroyed, the country would fall into the hands of the Protestant clergy, who would form the only organised body remaining in existence. He appears to have given way at last, and to have promised to give £2,000 to the cause.

Tresham  
determines  
to inform  
Lord  
Monteagle.

He pleaded strongly for his brother-in-law, and when he found that the other conspirators were unwilling to risk their lives by giving formal information to Lord Monteagle, he probably formed the determination to take the matter into his own hands. He told them that it would be necessary for him to go down into Northamptonshire, in order to collect the money which they required, and he made an appointment with Winter to meet him as he passed through Barnet on his return, on the 28th or the 29th of October.

On the 25th, and perhaps on the 26th, he was still in London. On one of those days, Winter came to him at his lodgings in Clerkenwell, and obtained £100

\* Declaration of Tresham, Nov. 13, 1605, *S. P. Dom.* xvi. 63.

from him.\* Shortly afterwards he was on the way to Rushton.

CH. V.  
1605.

On the 26th, Lord Monteagle ordered a supper to be prepared at his house at Hoxton, although he had not been there for more than twelve months.† He was a man who had been closely connected with some of the principal conspirators. He was himself a Catholic. He had been engaged in Essex's rebellion, and he had shared in promoting Winter's expedition to Spain.‡ It has been suspected that even at that time he furnished information to the Government. However this may have been, on the accession of James he gave his whole support to the new King. His advances were accepted, and he was admitted to high favour at Court.§

As he was sitting down to supper, one of his footmen came in, bringing with him a letter which he had been requested to give to his master by a man whose features he had been unable to distinguish in the dark winter night. Lord Monteagle took the letter, and as soon as he had glanced over it, handed it to Ward, one of the gentlemen who were in his service, requesting him to read it. The letter was anonymous, and ran as follows:—

A letter  
brought to  
Lord  
Monteagle.

\* This fact, which is distinctly stated by Winter (Exam. Nov. 25, 1605, *G. P. B.*), seems to have been overlooked by Mr. Jardine. It strengthens the evidence against Tresham, as it shows that he must have been in London within twenty-four hours of the delivery of the letter, if he was not there on the very day. It is suspicious that while Tresham gave rather a minute account of his proceedings, and mentioned a later occasion on which Winter came to him for money, he never spoke of this visit in his examinations, as if he had been unwilling to have it known that he was in London at the time.

† Greenway's MS. in Tierney's *Dodd*, iv. 50. The King's History of the Gunpowder Plot, *State Trials*, ii. 195. Account of the plot drawn up by Munc, and corrected by Salisbury, *G. P. B.* Nov. 7, 1605.

‡ Examination of Tresham, Nov. 29, 1605, *G. P. B.* Note by T. Winter, Nov. 25, 1605, *G. P. B.* In the calendar, this note is said to refer to a message 'relative to the plot,' and it is appended to an examination of Winter of the same date, relating to the Gunpowder Plot. This must be a mistake, though both papers are endorsed in the same handwriting, '25 9<sup>br</sup> 1605. The Examination of Winter.' The two papers themselves are not in the same handwriting, and the note evidently relates to the Spanish plot of 1602. It must refer not to anything in the examination which is extant, but to a message in another which has been lost, and which was mentioned by Tresham in his examination of Nov. 29.

§ Jardine, p. 80.

CH. V.  
1604.

‘My lord, out of the love I bear to some of your friends, I have a care of your preservation. Therefore I would advise you, as you tender your life, to devise some excuse to shift of your attendance at this Parliament; for God and man hath concurred to punish the wickedness of this time. And think not slightly of this advertisement, but retire yourself into your country, where you may expect the event in safety, for though there be no appearance of any stir, yet I say they shall receive a terrible blow this Parliament, and yet they shall not see who hurts them. This counsel is not to be contemned, because it may do you good, and can do you no harm, for the danger is past as soon as you have burnt the letter: and I hope God will give you the grace to make good use of it, to whose holy protection I commend you.’ \*

He takes  
it to  
Whitehall.

Monteagle at once set out for Whitehall, to communicate the letter to the Government. On his arrival he found Cecil, who had been, in the course of the preceding year created Earl of Salisbury,† just ready to sit down to supper in company with Nottingham, Suffolk, Worcester, and Northampton. Monteagle immediately drew him aside into another room, and put the letter into his hands. Although vague rumours had already reached Salisbury’s ears that some danger was in agitation amongst the Catholics, he was at first inclined to think lightly of the matter;‡ but being well aware of the discontented state of the Catholics, he determined to make further inquiries. Accordingly, he called Suffolk from the next room and put the letter before him. As they reperused the paper, it occurred to them that it might probably refer to some attempt at mischief by means of gunpowder. Upon this Suffolk, to whom, as Lord Chamberlain, all the buildings in and around the Parliament House were well known, remembered that the cellar under the house would be a suitable place for the

\* The original is in the *G. P. B.* There is a copy with all the peculiarities of spelling in Jardine, p. 82.

† Cecil had been created Viscount Cranborne, Aug. 20, 1604, and Earl of Salisbury, May 4, 1605.

‡ Salisbury to Cornwallis, Nov. 9, 1605, *Winw.* ii. 171, compared with Munck’s account, which agrees with it in all important particulars.

execution of a design of this kind. As soon as Monteagle had left them, they imparted the discovery to the other three lords; who agreed that it would be proper to search the cellar before the beginning of the session, but advised that the search should be delayed as long as possible, in order that the conspirators might not be scared before their plot was fully ripe.

On the 31st, the King, who had been absent at Royston, returned to London, but it was not till Sunday, the 3d of November, that the letter was shown to him. He at once, if we are to believe the narrative drawn up under Salisbury's inspection, came to the same conclusion as that which had been come to by his ministers.\* By his direction, Suffolk, in execution of his office as Lord Chamberlain, proceeded about three o'clock on the afternoon of the following day to go round the Parliament House and the adjoining buildings. In this search he was accompanied by Monteagle, who had joined him at his own request. Suffolk, like the rest of the Councillors, had no very strong belief in the reality of the plot, and was under great apprehensions lest he should become an object of general ridicule, if the gunpowder for which he was looking proved to be without any real existence. He therefore gave out that he was come to look for some stuff of the King's which was in Whynniard's keeping, and, finding that Whynniard had let his cellar to a stranger, he contented himself with looking into it without entering. Seeing the piles of coals and faggots, he asked to whom they belonged. Fawkes, who had opened the door to him, said that they belonged to Mr. Thomas Percy, one of His Majesty's Gentleman Pensioners. Upon hearing Percy's name, Suffolk suspected that there was more truth in the story than he had previously supposed. Monteagle, probably wishing to shield Tresham, and hoping

CH. V.  
1605.

The King  
returns  
from Roy-  
ston, and  
orders  
search to  
be made.  
Nov. 4.

\* James, as is well known, took a pleasure in allowing it to be believed that he had made the discovery himself. It was not a very difficult one to make, and the courtiers probably were discreet enough to hold their tongues as to the fact that they had anticipated his conclusions. On the other hand, it was certainly absurd to found the inference on the words 'the danger is past as soon as you have burnt the letter.'

CH. V.  
1605.

to put the Government on a wrong scent, suggested that Percy might have sent the letter. Upon receiving Suffolk's report of what he had seen, the King ordered that further search should be made, still under the pretence of looking for the stuff which was missing.

Discovery  
of the gun-  
powder by  
Knyvett.

There was no time to be lost, as the Session was to commence on the following morning. About eleven at night, Sir Thomas Knyvett went down to the cellar. At the door he was met by Fawkes. He stopped him, and carefully removing the coals and wood, he came to the barrels of gunpowder. Fawkes saw at once that the game was up. He made no attempt to excuse himself, but confessed that he had intended to blow up the King and the two Houses on the following morning. Upon this he was bound hand and foot, and taken to Salisbury's lodgings. Such of the Council as could be reached at that late hour were summoned to the King's bedchamber. James's first thought on hearing of the discovery was to offer thanks to God for his deliverance. He then directed that the Lord Mayor should be ordered to set a watch for the prevention of any outbreak, and that the prisoner should be carefully guarded, in order to hinder any attempt at self-destruction.

Tresham  
the writer  
of the  
letter.

A question has often been raised, whether the letter received by Monteagle was, in reality, the first intimation given to him. That the writer of the letter was Tresham there can be no reasonable doubt.\* The character of Tresham, the suspicions of his confederates, his own account of his proceedings, all point to him as the betrayer of the secret. If any doubt still remained, there is the additional evidence in the confidence which was after his death expressed by his friends, that if he had survived the disease of which he died, he would have been saved from all fear of the consequences of the crime with which he was charged.† This confidence

\* The whole argument is clearly given in Jardine, pp. 83-90. The evidence seems to warrant a stronger conclusion than that to which Mr. Jardine arrived. It is plain, however, that no doubt remained in his own mind.

† Waad to Salisbury, Dec. 23, 1605, *S. P. Dom.* xvii. 53. His friends were marvellous confident if he had escaped this sickness, and have delivered out words in this place, 'that they feared not the course of justice.'



they could only have derived from himself, and it could only have been founded upon one ground.

To say the least of it, it is highly probable that Monteagle expected the letter on the evening of the 26th. He came out unexpectedly to sup at Hoxton, where he had not been for upwards of a twelvemonth. If there had been no communication between him and the writer of the letter, how could the bearer of it know that he would find one of Monteagle's footmen at so unlikely a spot? Why, too, should Monteagle, instead of reading the letter himself, have given it to Ward to read aloud? Besides, if Tresham had calculated upon the letter alone to deter his brother-in-law from going down to the House, he would surely have written it in plainer terms.\*

The probability is that Tresham, finding that he could not persuade Catesby to give a sufficiently distinct warning to Monteagle, sought an interview with him himself. If the object which they both had before them was to frustrate the whole scheme in such a manner as to allow the conspirators themselves to escape, it is impossible to imagine a more satisfactory contrivance. The information given was just enough to set the Government upon preventive measures, but not enough to enable them to seize the culprits.† By giving the letter to Ward, Monteagle conveyed the intelligence to a man who was likely to warn the conspirators of the discovery of their schemes; Ward being a friend of Winter's, would be certain to inform him of what had happened.‡ There could be but little doubt,

CH. V.

1805.

Probable arrangement between him and Monteagle.

\* The greater part of this argument is abridged from Mr. Jardine's, to which there is scarcely anything to be added, pp. 90-93.

† Was Tresham himself the man who gave the letter to the servant? We have seen that he was most likely in London on the 26th. He would then have ridden off at once to Rushton. Monteagle may have placed in his way a footman not likely to recognise him.

‡ The excited feelings under which the letter was written, and the desire to keep the middle ground between telling too little and telling too much, may account for the obscurity of its style. Besides holding that Monteagle was acquainted with Tresham's intention of writing the letter, Mr. Jardine adopts Greenway's opinion that the Government, or at least Salisbury, was acquainted with the manoeuvre. 'Many considerations,' he says, 'tend to confirm the opinion expressed by Greenway in his narrative, that the particulars of the plot had been fully revealed to Lord Salisbury by

CH. V.  
1605.

that upon receipt of this intelligence, they would take to flight.

Part of this scheme was successful. Either by arrangement, or in consequence of his own friendship for Winter,

Monteagle, who was supposed by Greenway and the conspirators to have received a direct communication from Tresham, and that the letter was a mere contrivance of the Government to conceal the means by which their information had really been obtained' (*Archæol.* xxix. 101).

In this theory I am unable to concur. The arguments by which it is supported seem to me to be weak, and there are difficulties in the way of its reception which appear to be insuperable.

Mr. Jardine's first argument is that Monteagle 'received £500 per annum for his life and £200 in fee farm rents,' which he considers to be extravagant over-payment, 'upon the supposition that the only service he rendered was delivering to the Council an obscure anonymous letter, which he did not understand.' (*Ibid.* p. 100.)

Surely, if the letter really was the means of discovering the plot, we can understand that the Government would not have scanned very closely the nature of the means by which they had been saved. Besides, there were additional reasons for valuing Monteagle's services highly. It soon became probable that several other Catholics had received similar warnings, more or less obscure, and of all these not one, except Monteagle, had mentioned the matter to the Council.

Another argument used by Mr. Jardine, though he acknowledges that it is not entitled to much weight, is, that Monteagle was one of the Commissioners for proroguing Parliament on the 3rd of October, though he had not previously been employed on similar occasions. He thinks it probable that James and his Council wished to secure the Commissioners from being blown up on that occasion, by exposing a relative of some of the conspirators to danger.

In the first place the conspirators wanted to blow up the King and the Parliament, and were not likely to stoop to such small game as half a dozen Privy Counsellors; in the second place it is admitted that whatever Monteagle knew, he learned from Tresham. But Tresham himself knew nothing of the plot till eleven days after the prorogation.

The only really important argument is drawn from the conduct of the Government towards Tresham. On the 7th of November questions were put to Fawkes in which the names of certain persons were proposed to him, and he was asked whether they shared in the plot. Among these Tresham's name occurs. 'Yet, though a proclamation was issued on that very day against the others, Tresham's name is not mentioned in it' (Jardine, *Narrative*, p. 120). On the 9th, Fawkes expressly mentioned him as an accomplice; yet, although he could have been arrested at any moment, he was not brought before the Council for examination till the 12th.

This certainly would give some weight to Mr. Jardine's theory, that the Government wanted to spare him, if there were not very strong reasons which make us seek for an explanation in another direction. In the first place, Suffolk's behaviour on the 4th looks like that of a man who knew nothing more of the plot than what was on the face of the letter. But if it is said that Salisbury alone was behind the scenes, it remains to be shown what conceivable motives he can have had for the part which he is supposed to have acted. Can it be supposed that Tresham brought him information which was so scanty, that he was unable to seize the conspirators before their flight from London? This information, too, must have been of such a character that, although Salisbury was able to issue a proclamation for the

Ward only waited till the next day to slip round to his lodgings and to tell him all that he knew. On the following morning Winter went out to White Webbs, a house in Enfield Chase, where Catesby was to be found, and entreated him to give up the enterprise, and to leave the country. Catesby received the news with astonishing coolness. He decided to wait till the 30th, when Fawkes, who was in the country, was expected to join them. They would then send him to examine the cellar, and they would be guided by his report. Meanwhile, their suspicions naturally turned upon Tresham as the traitor. They expected him to pass through Barnet at two in the afternoon of the 29th, and it had been arranged that Winter should meet him there. Tresham, however, shrunk from seeing any of his fellow-conspirators, and caught eagerly at any plan which would save him from

CH. V.

1605.

Ward informs  
Winter of  
what had  
passed.

apprehension of Percy on the 5th, he was unable to name any of the other conspirators till the 7th. If Tresham had really come with such a lame story as it is necessary to suppose — if he really saw Salisbury before the 26th of October — he would immediately have been sent to the Tower, and probably tortured till he consented to reveal the names of his accomplices. It is plain that, with the exception of the names of Percy and Fawkes, not a single name was known to the Government till the 7th. And yet, it is for this that Tresham was to be so highly favoured. It is obvious that whoever invented the scheme of the letter did so with a view to the escape of the conspirators. Salisbury was accused by his contemporaries of inventing the whole plot, with a view to gain favour by his supposed cleverness in detecting it. Absurd as this charge was, it is hardly more absurd than a theory which makes him to be the inventor of a scheme which was admirably adapted to enable the conspirators to escape, and by which he did not even succeed in discovering their names.

On the other hand, the suspicious circumstances are capable of an explanation. The information of the names must have reached the Government on the 7th, or late on the 6th. Perhaps Monteagle gave them up, when the whole plot had broken down. Perhaps they were learned from some other source.

At first, the Government would be unwilling to arrest Tresham, as being Monteagle's brother-in-law. He had not taken flight, and they knew that they could have him when they wanted him. When the news came that so many of the plotters had been killed, Tresham's evidence became important, and he was accordingly sent for on the 12th. When he was dead, the Government may have thought it better to allow him to be attainted with the others. They must have suspected that Monteagle knew more of the plot than he had avowed, and they may have thought that to except his brother-in-law from the attainder would expose him to suspicion.

There is in *Add. MS.* 19,402, fol. 143, a curious letter of Monteagle's, written to assure the King of his desire to become a Protestant. It is undated, but it would hardly have been without reference to the plot, if it had been written subsequently to 1605.

CH. V.  
1605.

The conspirators  
refuse to  
give up  
their plan.

their presence even for four-and-twenty hours. He accordingly sent to Winter to inform him that he had postponed his journey, and that he should not pass through Barnet till the 30th. He said nothing of the hour at which he was to pass, and pushing on got through at eight in the morning, long before he was expected. He had not secured immunity for any long time; the next day the unhappy man was doomed to see the detested face of Winter at his lodgings in London. He had come to request his presence at Barnet on the following day. Tresham did not dare to refuse. At the appointed time he went to Barnet, where he found Catesby and Winter waiting for him. They at once charged him with having written the letter. They intended, as it was said, to poniard him at once if he gave room for the slightest suspicion.\* He showed, however, so bold a face, and swore so positively that he knew nothing of the matter, that they let him go. He again pressed them to let the matter drop, at least for the present, and to take refuge in Flanders. He found that his entreaties were all in vain. In fact, Fawkes had been sent up to London to examine the cellar, and upon his report that he had found everything in the state in which he had left it, they came to the conclusion that the Government had attached no weight to Monteagle's representations, and that the conspirators would incur no real danger by persisting in their original plan.

\* Declaration of Tresham, Nov. 13, *S. P. Dom.* xvi. 33. Confession of T. Winter, Nov. 23, *G. P. B. Jardine, Narrative*, p. 96, from Greenway's MS.

A Calendar of the proceedings of these days may be useful:—

Sat. Oct. 26	Monteagle receives the letter.
Sun. " 27	Ward informs Winter.
Mon. " 28	Winter informs Catesby.
Tu. " 29	
Wed. " 30	Tresham returns. Fawkes examines the cellar.
Th. " 31	Winter summons Tresham.
Fri. Nov. 1	Meeting of Tresham with Catesby and Winter.
Sat. " 2	Winter meets Tresham at Lincoln's Inn.
Sun. " 3	Meeting behind St. Clement's.
Mon. " 4	Percy goes to Sion. Fawkes taken.
Tu. " 5	Flight of the conspirators.
Wed. " 6	Arrival at Huddington at 2 p.m.
Th. " 7	Arrival at Holbeach at 10 p.m.
Fri. " 8	Capture at Holbeach.

On the next day, Winter was again despatched to Tresham for money, and was quieted with £100. Tresham again pressed him to fly, and assured him that Salisbury was acquainted with all their secrets, and that he had laid everything before the King. Upon hearing this, Winter carried the news to Catesby, who was at last shaken by this new intelligence, and made up his mind to fly. Before taking this last step, however, he would confer with Percy, who was expected to arrive shortly from the North, where he had been engaged in collecting the Earl of Northumberland's rents.

Accordingly, on the evening of the 3d of November, a meeting was held at the same house behind St. Clement's in which the original conspirators had taken their oath of secrecy eighteen months before. Those five men now met again in the same place. Christopher Wright was the only other person present. Upon hearing all that had passed, Percy insisted upon their continuing steadfast. They could not tear away from their breasts a hope which had, by long cherishing, become a part of themselves, and they allowed themselves to be persuaded by his earnest entreaties. Fawkes, with a rare self-devotion, which, even in such a cause as this, commands our admiration, went down to the cellar and occupied his post as usual. Rokewood and Keyes were also in London, but it does not appear whether they were told that the plot had been discovered.

On Monday afternoon Fawkes was still at his post. After Suffolk and Monteagle had left him, he may possibly have thought that the danger was over. About ten o'clock he received a visit from Keyes, who brought a watch which Percy had bought for him, in order that he might know how the hours were passing during that anxious night.\* Within an hour after the time when Keyes left him, he was a hopeless prisoner, and all his schemes were blown for ever to the winds.

Early on Tuesday morning the chief conspirators were flying at full gallop along the road to Lady Catesby's

CH. V.  
1605.

Meeting  
behind St.  
Clement's.

Fawkes  
remains at  
his post.

Flight of  
the plot-  
ters.

\* Declaration of Fawkes, Nov. 10, 1605, *G. P. B.*

CH. V.  
1605.

house at Ashby St. Legers. Utterly disheartened by the consciousness of failure, they yet instinctively followed out the plan which they had determined upon whilst success seemed still within their grasp. Catesby and John Wright were the first to get away. At five on the morning of the 5th, Christopher Wright burst into Winter's lodgings with the tidings that all was at an end. He then went out to reconnoitre, and returned with the assurance that the news was only too true. He again went out to find Percy, whose name was now known to the Government as that of the tenant of the cellar. These two galloped off together. Some hours later they were followed by Keyes and Rokewood, the latter of whom did not leave London before ten o'clock.\*

Thomas Winter was the last to fly. He determined to see for himself how matters stood. He coolly made his way to the gates of the palace, which he found strictly guarded. He then attempted to reach the Parliament House, but was stopped by the guard in the middle of King Street. As he returned, he heard men in the crowd talking of the treason which had been discovered. Finding that all was known, he took horse and followed his companions in their flight. He seems to have been the only one of them who did not hurry himself; for though he could not have left London at a much later hour than Rokewood, he did not overtake the rest of the party till Wednesday evening, when he found them at Huddington.

Nov. 6.

Nov. 5.

About three miles beyond Highgate Keyes was overtaken by Rokewood. Further on he contrived to slip away from him, and to conceal himself till he was captured, a few days later. The speed at which Rokewood was riding enabled him to come up with Percy and Christopher Wright, about forty miles down the road. A little beyond Brickhill they overtook John Wright and Catesby. In hot haste all five pressed on, as men press on who are flying for their lives. So excited were they, that Percy and John Wright tore

\* Rokewood's Examination, Dec. 2, 1605, *G. P. B.* Examination of R. Rooks and Elizabeth More, Nov. 5, 1605, *S. P. Dom.* xvi. 11, 13.

off their cloaks and threw them into the hedge, in order that they might ride the faster.

Whilst these men were thus riding their desperate race, Digby was calmly carrying out his instructions, in complete ignorance of the failure of his associates. He came to the hunting at Dunchurch, accompanied by his uncle, Sir Robert Digby, of Coleshill. Grant brought with him three of his own brothers, a neighbour named Morgan, and a third brother of the Winters. Late in the evening Robert Winter rode in, followed by Robert Acton, a neighbour, whom he had persuaded to join him, and by Stephen and Humphrey Littleton, of Holbeach, in Staffordshire. These two had been induced to come in hopes of obtaining a commission for one of them in the force which Catesby had been ostensibly levying for the Archduke. All the gentlemen who arrived were accompanied by their servants. The number of persons present was about eighty.\* Winter left the Littletons at Dunchurch, and rode on to Ashby with some others of his companions. He expected that he would thus be the first to hear the good news from Catesby, who was sure to bring the tidings to his mother's house.†

About six in the evening Catesby arrived at Ashby. He called for Winter to come out to him, and there he poured out to him the whole wretched story of failure and despair. Winter saw at once that all hope was at an end, and advised instant surrender. Catesby, who had waded far deeper into treason than his adviser, refused to hear of it, and decided upon riding off to Dunchurch, for the purpose of consulting with his friends. Bates, who lived at a little distance from the house, was sent to Rugby to act as guide to some of Catesby's party, who had been left there.

On his arrival at Dunchurch, Catesby called Digby

CH. V.  
1605.  
The hunting at Dunchurch.

Catesby's arrival at Ashby St. Legers.

\* Examination of J. Fowes. Enclosed in a letter of the Sheriff and Justices of Warwickshire to those of Worcestershire, Nov. 6, *G. P. B.*

† Examination of Francis Grant. Enclosed in a letter of the Sheriff of Warwickshire to Salisbury, Nov. 7, *G. P. B.* Examination of R. Higgins, enclosed in a letter of the Justices of Warwickshire to Salisbury, Nov. 12, *G. P. B.* Examination of R. Jackson, enclosed in a letter of the Sheriff of Northamptonshire to Salisbury, Nov. 8, *S. P., Dom.* xvi. 28. R. Winter to the Lords Commissioners, Jan. 21, 1606, *G. P. B.*

CH. V.  
1605.

aside, and told him 'that now was the time to stir for the Catholic cause.' He had, indeed, failed in the blowing up the Parliament House, but both the King and Salisbury were dead, so that if they were only steadfast in asserting their claims, he 'doubted not but they might procure themselves good conditions.' He assured him that the Littletons would be able to assist them with a thousand men, and that Robert Winter's father-in-law, John Talbot of Grafton, would undoubtedly join them with a large force as soon as he heard that they were in arms.\*

These falsehoods imposed upon the weak mind of Digby. With most of the others they failed entirely. Sir Robert Digby rode off indignantly, and tendered his services to the Government. Humphrey Littleton refused to follow them, and several more, especially of the servants, took every opportunity which offered itself of slipping away unobserved. The remainder determined to make the best of their way to Huddington, in hopes of raising the Catholics of the neighbourhood. They would then pass on into Wales, where they expected to be joined by large numbers of insurgents.†

Seizure of  
horses  
at War-  
wick.

As they rode along they remembered that at Warwick there was a stable, in which they would be able to find fresh horses, which they might carry off in exchange for the tired ones on which some of the company were mounted. Robert Winter, who, as he had never joined in the actual operations, had not sufficiently realised his position as a conspirator, remonstrated against this breach of the law. 'Some of us,' was Catesby's answer, 'may not look back.' 'But,' said Winter, 'others, I hope, may, and therefore, I pray you, let this alone.' 'What! hast thou any hope, Robin?' was the reply; 'I assure thee there is none that knoweth of this action but shall perish.' Rokewood, too, felt indisposed to join in horse-stealing, especially as he was himself well mounted, and rode on before them towards Grant's house at Norbrook. At three in the morning the rest of the party rejoined him there

\* Examination of Sir E. Digby, Nov. 19, 1605, *S. P. Dom.* xvi. 94.

† Examination of Garnet, March 12, 1606, *S. P. Dom.* xix. 40.



upon their fresh horses, but they only remained long enough to take away about fifty muskets and a fresh supply of powder and ball. They then rode on, tired as they were, to Huddington, where they arrived, weary and desponding, at two o'clock in the afternoon of the 6th,\* having despatched Bates, as they left Norbrook, to Coughton, with a letter for Father Garnet, in which their condition was described, and his advice was asked.

Bates found Garnet at Coughton, and gave him the letter. While he was reading it, Father Greenway came in, and, upon hearing the news, offered to accompany Bates to Huddington. Upon their arrival, Catesby, catching sight of the priest's face, exclaimed, that 'here at least was a gentleman who would live and die with them.'† After a conference with Catesby and Percy, Greenway rode away to Hendlip, a house about four miles from Huddington, belonging to a Catholic gentleman of the name of Abington, who had often offered a refuge to priests flying from persecution. It was in vain that he tried to gain him to the cause.‡ Abington would willingly have sheltered him if he had been seeking a refuge for himself, but he immediately refused to take any part in treason.

CH. V.  
1805.

Unsuccessful attempt to gain Abington,

The main hope of the conspirators was now to obtain the assistance of John Talbot, whose daughter was married to Robert Winter. He was one of the wealthiest of the Catholic laity,§ and was a man of considerable influence, as the representative of the younger branch of the family of the Earl of Shrewsbury.|| Soon after their arrival at Huddington, Catesby and John Wright pressed Winter to write to his father-in-law. Winter, who knew him well, positively refused, telling them 'that they did not know him, for the world would not draw him from his allegiance.'¶ Even if his loyalty had not been steadfast,

and Talbot of Grafton.

\* Examination of Gertrude Winter, Nov. 7, *G. P. B.*

† Examination of Bates, Jan. 13, 1806, *G. P. B.* Declaration of H. Morgan, Jan. 10, *G. P. B.*

‡ Examination of Oldcorne, March 6, *G. P. B.*

§ He was one of those who paid the £20 fine, as was Throckmorton, the owner of Coughton.

|| His son succeeded to the earldom on the extinction of the elder branch in 1617.

¶ R. Winter to the Lords Commissioners, Jan. 21, 1806, *G. P. B.*

CH. V.

1605.

Flight to  
Holbeach.

so wealthy a man was the last person likely to take part in a hopeless insurrection.

In the evening the fugitives were joined by Thomas Winter. On the following morning the whole company, now reduced by desertion to about thirty-six persons, were present at mass.\* After its conclusion, they all confessed to the priest, who was a Father Hammond. He was aware of their late proceedings, but does not seem to have considered that there was anything in them which needed absolution. At least Bates naïvely stated that when he confessed on this occasion it was only for his sins, and not for any other particular cause.

The fugi-  
tives break  
into  
Whewel  
Grange.

After they had thus cleared their consciences, they rode off to Stephen Littleton's house, at Holbeach, in Staffordshire, taking with them ten of Winter's servants. As they passed by Whewel Grange, the house of Lord Windsor,\* they broke into it by force, and took all the armour which they could find, supplying those of the company who needed it, and putting that for which they had no immediate use into a cart which followed them.

It was all to no purpose. Not a soul was willing to share their fate. Whilst they were at Lord Windsor's, a number of countrymen came to them and asked them what they meant to do. Catesby, in return, asked them to go with him. This was no answer, and they again asked what he intended to do. He saw that nothing could be done with them, and contented himself with saying, that he was for 'God and the country.' 'And we,' said his questioner, 'are for God and the King, and the country;' and turned his back upon him.

Nov. 7.  
They ar-  
rive at  
Holbeach.

About ten o'clock at night they arrived at Holbeach, which was situated just over the borders of Staffordshire, about two miles from Stourbridge. Many of their followers had, in spite of all their precautions, dropped away from their ranks. The Sheriff of Worcestershire was following them, with all the forces of the county;

\* Examination of J. Flower and Stephen Kirk, enclosed by Sir E. Leigh to the Council, Nov. 9, *G. P. B.* Examination of Bates, Dec. 4, *G. P. B.*

† Examination of W. Ellis, Nov. 21, *G. P. B.*

and the Sheriff of Staffordshire might soon be expected to bar their further progress. Flight had now become impossible, and hope of gathering fresh strength there was none. Early on the following morning they were deserted by Sir Everard Digby. Desperate as their case was, they determined to make one more effort to get help from Talbot. Accordingly, Thomas Winter and Stephen Littleton were despatched to Grafton.\* They found the old man at home, who at once drove them out of his presence. On their return, they were met by one of Winter's servants, who told them that a terrible accident had occurred, and that some of their number had been killed.† Upon this Littleton lost heart and rode away, inviting Winter to accompany him. Winter, like a brave man as he was, answered, that he would first find Catesby's body and bury it before he thought of himself. On entering the house, he found that his friends were more frightened than hurt. The gunpowder which they had brought with them had been wetted in crossing the Stour, and they were engaged in drying some of it when a hot coal fell into it. Catesby and Rokewood were slightly injured by the explosion. Grant suffered more severely, his face and hands being much burnt. Their terror was extreme; they fancied they saw in the accident the finger of God's Providence, bringing vengeance upon them by the same means as that by which they had planned to take away the lives of so many of their fellow-creatures. John Wright, who was himself unhurt, stepped up to Catesby and cried out, 'Woe worth the time that we have seen this day!' and called for the rest of the powder, that they might blow themselves all up. Robert Winter left the house and fled; he was immediately followed by Bates.

As soon as Thomas Winter entered the house, he asked what they meant to do. They all answered with one voice, that they meant to die there. Winter assured

CH. V.  
1605.

Nov. 8.

The accident at  
Holbeach.

\* Examination of J. Talbot, Dec. 4, *G. P. B.* Examination of T. Winter, Dec. 5, *G. P. B.*

† Confession of T. Winter, Nov. 23, *G. P. B.* Examination of Bates, Dec. 4, *G. P. B.* Greenway's MS. in Tierney's *Dodd*. iv. 53.

CH. V.	them that he would share their fate. The remainder of
1605.	the time which was left to them they spent in prayer
.	before a picture of the Virgin, acknowledging now, at last, that they had been guilty of a great sin.
Arrival of the Sheriff.	About eleven the Sheriff arrived. His men began firing into the house. Winter, who went out into the court to meet them, was wounded by a shot in the shoulder. John Wright was the first who was shot dead, and, immediately afterwards, his brother fell by his side. Rokewood dropped, wounded in four or five places. Upon this, Catesby begged Winter to stand by him, that they might die together. 'Sir,' was the answer, 'I have lost the use of my right arm, and I fear that will cause me to be taken.' As they stood near each other, Catesby and Percy fell, the same bullet passing through the bodies of both. Catesby was able to crawl on his knees to the picture of the Virgin, which he took in his arms, and died kissing and embracing it. Percy lived for two or three days longer. The assailants rushed in, and found the two wounded men, Winter and Rokewood. They carried them off as prisoners, with Grant and Morgan and the few servants who had remained faithful to their masters.* The other conspirators were picked up here and there in their various hiding-places, most of them in the course of the next few days.
Death of the two Wrights,	
and of Catesby and Percy.	
The rest are taken.	
Character of the conspiracy.	It is impossible not to feel some satisfaction that so many of the original conspirators escaped the scaffold. Utterly inexcusable as the whole undertaking was, great as must have been the moral obliquity of their minds before they could have conceived such a project, there was at least nothing mean or selfish about them. They had boldly risked their lives for what they honestly believed to be the cause of God and of their country. Smarting under a sense of real injustice, they entered upon a design by which they hoped to right themselves and their countrymen. An attempt has been sometimes made to paint in high colours the hardships caused by the recusancy fines, as if that would be a palliation of

\* T. Lawley to Salisbury, Nov. 14, *Add. MS.* 5495.

the crime. In truth, that which most clearly separates them from ordinary conspirators is, that no money question had anything whatever to do with their determination. At the time when the plot was first formed, the system of recusancy fines was apparently dying out, and to the last not one of those who were in any way connected with the conspiracy ever paid a shilling into the Exchequer on account of their religion. The grievance of which they complained was one which nobler hearts alone can feel: they were prohibited from worshipping God in the only way in which, as they believed, it was possible for Christian men to worship Him at all.

If the atrocity of their design was hidden from their eyes, it was not from any ambitious thoughts of the consequences of success to themselves. When Watson and his associates formed their design for the same cause, visions floated before their eyes in which they saw themselves installed in the highest offices of the State. In the expressions of these conspirators not a single word can be traced from which it can be inferred that they cherished any such thoughts. As far as we can judge, they would have been ready, as soon as the wrongs of which they complained had been redressed, to sink back again into obscurity. One thing was wanting, that they should see their atrocious design in the light in which we see it. Even this was vouchsafed to some of them. In their time of trouble wisdom came to them. When they saw themselves alone in the world, when even their Catholic brethren spurned them from their houses, their thoughts turned to reconsider their actions, and to doubt whether they had been really, as they had imagined, fighting in the cause of God. In such a frame of mind, the accident with the gunpowder at Holbeach turned the scale, and placed before them their acts as they really were. With such thoughts on their minds, they passed away from the world which they had wronged to the presence of Him who had seen their guilt and their repentance alike.

On the morning of the 5th, the news of the great

CH. V.  
1605.

Examina-  
tion of  
Fawkes.

deliverance ran like wildfire along the streets of London. The suspicions of the people were naturally directed against the Spaniards who happened to be in the city, and especially against the Spanish Ambassador. If measures had not been promptly taken, it might have gone ill with the object of the popular dislike.\* In the evening all the bells were ringing, and the sky was reddened with the bonfires which were blazing in every street.†

Nov. 6.

On the following morning Fawkes was carried to the Tower. The King, hearing that he refused to implicate any of his accomplices, sent a string of questions to which he was required to answer, and ordered that, if he refused, he should be put to the torture,‡ though recourse was not to be had to the rack unless he continued obstinate. These questions were put to him on the same afternoon, but nothing was obtained from him beyond a fictitious account of his own origin and life. He still insisted that his name was Johnson.

At first the Government had only received sufficient information to enable them to issue a proclamation for the arrest of Percy. On the 7th they obtained from some unknown source intelligence which put them in possession of the names of the other conspirators. A proclamation was set forth in which the names of all of them were mentioned, excepting Tresham, who was still in London, and on whom the Government could lay their hands whenever they pleased. On the same day Fawkes was again examined, probably after one of those gentler tortures which James had recommended. He gave some further particulars of the plot, and allowed that his name was Fawkes.§

\* Waad to Salisbury, Nov. 5, *G. P. B.*

† Chamberlain to Carleton, Nov. 7, *S. P. Dom.* xvi. 23.

‡ Torture, though unknown to the common law, had, for upwards of a century, been frequently used to extract evidence. The infliction of it was considered to be part of the Royal prerogative, which enabled the King to override the common law. It could, therefore, be employed only by express command of the King or of the Council acting in his name (See Jardine *On the Use of Torture in the Criminal Law of England*).

§ The King's words were, 'The gentler tortures are to be first used unto him, et in per gradus ad ima tenditur, and so God speed your good work.'—King to the Lords Commissioners, Nov. 6, *G. P. B.* Sir E. Hoby wrote to

On the 8th, the day of the final catastrophe at Holbeach, much additional information was obtained from him. The next day he was undoubtedly subjected to torture of no common severity. The signature which he affixed to his examination is written in a trembling broken hand, as by a man who had lost all command over his limbs. The motive for the employment of torture was the hope that it might be possible to trace the connection which was suspected to exist between the conspirators and the priests. Fawkes admitted that the design had been communicated to Owen, who, as he knew, was safe in Flanders, beyond the power of the English Government. He acknowledged that the conspirators had, after taking the oath of secrecy, received the sacrament from the hands of Gerard; but, he expressly added, that Gerard knew nothing of their intentions. With respect to Garnet, he only stated that they had used his house in Enfield Chase as a rendezvous.\*

CH. V.  
1605.  
Nov. 9.

On Sunday a solemn thanksgiving was offered in all the churches. The news of the occurrences at Holbeach, which had been received that very morning, was given to the public by the Bishop of Rochester. On the 12th Thomas Winter arrived, and by degrees the particulars, which were still unknown, were wormed out of him and those of his fellow conspirators who survived.

Nov. 10.  
The  
Bishop of  
Rochester's  
sermon.

Among those who were thus examined was Tresham. He was not sent for till the 12th. It is possible that he was spared out of regard for Monteagle, until, by the death of so many witnesses, his testimony was rendered indispensable. If Salisbury still had any wish to treat him favourably, this wish was not shared by others at the Court. There were many who were already eager for the division of the spoil. Within a day or two of his committal, Sir Thomas Lake had obtained from the King a promise of one of his manors in the event of his conviction.†

Tresham's  
imprisonment  
and  
death.

Sir T. Edmondes, 'Since Johnson's being in the Tower, he beginneth to speak English, and yet he was never upon the rack, but only by the arms upright' (*Court and Times of James I.* i. 53). The letter is dated Nov. 19, but was evidently written piecemeal. This part was apparently written on the evening of the 7th, or the morning of the 8th.

\* Examination of Fawkes, Nov. 9, *G. P. B.*

† 'The King to Dorset, Nov. 18.

CH. V.

1605.

The great object of the Government now was to obtain evidence against the priests. Of their connection with the great conspiracy it soon became evident that Tresham knew nothing. But he might be able to tell something of the share which they had taken with the mission to Spain in 1602. He was examined on this point, and after flatly denying that he knew anything of the matter at all, was finally brought to confess not only his own share in the transaction, but that both Garnet and Greenway had been made aware of what was being done.\*

During these days he was seized by the disease under which he gradually sunk. He had no reason to complain of his treatment. During his illness his wife was allowed to remain with him, and his servant Vavasour was also permitted to have access to him at all times.†

On the 5th of December, Coke, in searching Tresham's chamber at the Temple, came upon a manuscript bearing the title of 'A Treatise on Equivocation,'‡ in which the Jesuit doctrine concerning the lawfulness of giving false evidence under certain circumstances was advocated. Tresham, who had already given proof how apt a scholar he had become in that evil school in which he had been brought up, was soon to give another proof of how completely he had mastered the principles of this book. On the 9th he was questioned about the book, and made a statement professing an ignorance of all circumstances connected with it, in which he could hardly have expected to be believed. As the days passed on, and he felt more and more that he was a dying man, he was haunted by remorse for his acknowledgment that Garnet had been acquainted with the mission to Spain. He determined to crown his life with a deliberate falsehood. One or two days before his death he dictated to Vavasour a declaration in which he not only affirmed that Garnet had taken no part in the negotiations, but, as if

\* Examination of Tresham, Nov. 29, *G. P. B.*

† Would this have been allowed, if he had been, as Mr. Jardine supposes, the depository of an important State secret?

‡ This copy, made by Vavasour, is in the Bodleian Library, and has been published by Mr. Jardine.



in mere recklessness of lying, he added that he had neither seen him nor heard from him for sixteen years.\* He died on the 22nd, leaving it as his last charge to his wife to forward this declaration to Salisbury. She did so, and the ridiculous untruth of the statement thus volunteered must have weighed much against any reasons for treating his memory with leniency. Henceforward his name appears on the same footing as that of the other conspirators. His body, according to the barbarous practice of those times, was beheaded, and his head was exposed to the public gaze at Northampton.†

CH. V.  
1805.

On the 27th of January the surviving conspirators, Fawkes, the two Winters, Keyes, Bates, Rokewood, Grant, and Digby, were brought up for trial in Westminster Hall, in the presence of an immense concourse of spectators.‡ Digby alone pleaded guilty. The others pleaded not guilty, not with any hope of obtaining an acquittal, but in order to have an opportunity of contradicting some statements of minor importance contained in the indictment. The main facts were too plain to be denied, and Coke had no difficulty in obtaining a verdict against the prisoners. Digby having stated that promises had been broken with the Catholics, Northampton rose and denied that the King had ever made them any promise at all before he came to England, an assertion which was certainly untrue. Salisbury drew a distinction between promises of toleration, or permission to enjoy the free exercise of their religion, and promises of exemption from fines, a distinction which has often been lost sight of. When, however, he proceeded to say that, in answering the deputation which had waited upon the Council in July 1603, nothing more had been promised than that the arrears then accruing should be remitted, he certainly said what he must have known to be untrue. The promise had been that, as long as the Catholics remained loyal, no fines should be levied; and this promise had been broken.

1608.  
Trial of the  
plotters.

On the 31st, Digby, Robert Winter, Grant, and

\* Coke to Salisbury, March 24th, 1606, *G. P. B.*

† Phelippes to Owen, Dec. 1605, *S. P. Dom.* xvii. 62.

‡ *State Trials*, ii. 193.

CH. V.

1606.

Feb. 1.

Execution  
of eight of  
the con-  
spirators.

Bates were executed in St. Paul's Churchyard. On the following day Fawkes, Thomas Winter, Rokewood, and Keyes suffered death at Westminster. As far as we know, these men, unlike those who perished at Holbeach, died in the firm persuasion that they were suffering as martyrs in the cause of God. As they passed along the streets, each of them, according to custom, dragged upon his separate hurdle, even these iron men must have longed for some sympathy as they looked up at the long line of hostile faces. Nor was this altogether withheld from them: as the miserable procession passed along the Strand, they came to the house in which Rokewood's wife was lodging. She had not shunned the spectacle, but had placed herself at an open window. Her husband, catching sight of her, begged her to pray for him. Without faltering, she answered: 'I will! I will! and do you offer yourself with a good heart to God and your Creator. I yield you to Him with as full an assurance that you will be accepted of Him as when He gave you to me.' \*

Evidence  
against the  
priests.

The whole story of the plot, as far as it relates to the lay conspirators, rests upon indisputable evidence. But as soon as we approach the question of the complicity of the priests, we find ourselves upon more uncertain ground. Of those who were implicated by the evidence of the plotters, Owen and Baldwin were beyond the reach of the Government, under the protection of the Archduke. Of the three who had been in England, Gerard and Greenway had contrived to make their escape, and Garnet alone was brought to trial. Catesby, who knew better than any man what Garnet's connection with the plot really was, was dead. Garnet's own statements are so mingled with known falsehoods that no reliance can be placed upon anything that he said. The whole case against him rests upon circumstantial evidence. This evidence, though it would now rightly be considered insufficient to justify an adverse verdict, was quite enough to convict a prisoner in the days when looser notions of the laws of evidence prevailed, and is of itself

\* Greenway's MS. quoted by Mr. Jardine, *Narrative*, p. 154.

sufficiently strong to leave no reasonable doubt in the minds of historical inquirers. CH. V.

It was not till the 4th of December that any one of the priests\* was actually implicated in the plot by any of the conspirators.† Bates, on that day, acknowledged that he had revealed the whole plot to Greenway in confession. On the 13th of January he gave a further clue, by narrating the history of his expedition to Coughton.‡ Upon this a proclamation was issued for the arrest of Gerard, Greenway, and Garnet. The first two succeeded in escaping. Garnet was less fortunate. He had remained at Coughton till the 4th of December, but had then moved to Hendlip in consequence of the invitation of a priest named Oldcorne, who had himself received shelter in Abington's house, and acted as his chaplain. The house was amply provided with means for secreting fugitives. There was scarcely a room which did not contain some secret mode of egress to a hiding-place constructed in the thickness of the walls. Even the chimneys led to rooms, the doors of which were covered with a lining of bricks, which, blackened as it was with smoke, was usually sufficient to prevent detection.§

1806.  
Dec. 4,  
1805.

Move-  
ments of  
Garnet.

On the 20th of January Sir Henry Bromley, a magistrate of the county, proceeded, in consequence of directions from Salisbury, to search the house.|| Several of the hiding-places were discovered, but nothing was found in them excepting what Bromley described as 'a number of Popish trash.' He was not satisfied with these results, and determined to keep watch, in hopes of making further discoveries. On the fourth day of his watch, he heard that two men had crept out from behind the wainscot in one of the rooms. They proved to be

The search  
at Hend-  
lip.

\* That Salisbury was not anxious to take any steps against the priests, unless upon clear evidence, appears from the fact that, though Lady Markham wrote to him on the 3rd of Jan. offering to act as a spy upon Gerard, he took no notice of her offer till the 15th.—*S. P. Dom.* xviii. 4, 19.

† Examination of Bates, Dec. 4, 1805, *G. P. B.*

‡ Examination of Bates, Jan. 13th, 1806, *G. P. B.*

§ There is a description and an engraving of the house in Nash's *Worcestershire*, i. 584.—Compare Jardine, p. 182.

|| *Harl. MS.* 360. fol. 92. Bromley to Salisbury, Jan. 23rd, printed in Jardine, p. 185.

CH. V. Garnet's servant Owen, and Chambers, who acted in the  
1606. same capacity to Oldcorne. They declared that they could hold out no longer, as they had had no more than a single apple to eat during the time of their concealment.

Garnet  
and Old-  
corne sur-  
render.

Two or three days after this, Bromley, who did not relax in his watchfulness, was encouraged by hearing that Humphrey Littleton had bought his life by confessing his knowledge that Oldcorne was at that moment in hiding at Hendlip.\* On the 30th his patience was rewarded.† To the astonishment of the man who was set to keep watch, the two priests, who could bear the confinement no longer, suddenly stepped out from their hiding-place. The sentinel immediately ran away, expecting to be shot. The priests had been in no danger of starvation. There was a communication between their place of concealment and one of the rooms of the house by means of a quill, through which they had received constant supplies of broth. They had suffered principally from want of air. The closet in which they were had not been prepared for their reception, and it was half filled with books and furniture. Garnet afterwards stated his belief that, if these had been removed, he could have held out easily for three months. 'As it was,' he said, 'we were well wearied, for we continually sat, save that sometimes we could half stretch ourselves, the place being not high enough; and we had our legs so straitened that we could not, sitting, find place for them, so that we both were in continual pain of our legs; and both our legs, especially mine, were much swollen. . . . When we came forth we appeared like two ghosts, yet I the stronger, though my weakness lasted longest.'

The two priests were sent up to London. They were allowed to travel by easy stages; and by Salisbury's express orders they were well treated during the

\* H. Littleton's relation, *Add. MS.* 6178, fol. 693.

† Bromley to Salisbury, Jan. 30th, *S. P. Dom.* xviii. 52. Garnet to Mrs. Vaux, printed in Jardine, App. i. He speaks of having been in the hole seven days and seven nights. If this is correct, he must have been removed to a safer place on the 23rd.

whole journey. Owen and Chambers, as well as Abington and two of his servants, were sent with them.

On the 13th of February, Garnet was examined by the Council. As he was conducted to Whitehall, the streets were crowded with multitudes, who were eager to catch a sight of the head of the Jesuits in England. He heard one man say, 'that he was a provincial,' whilst another shouted out, 'There goes a young Pope.' It was found impossible to extract from him any confession of his complicity in the plot. During the following days, he was repeatedly examined with equal want of success. At one time he was threatened with torture. It was all alike. Nothing could be gained from him either by fear or by persuasion. It was a mere threat, as the King had strictly forbidden the use of torture in his case.

CH. V.

1606.

Garnet  
examined  
by the  
Council.

Torture was, however, used upon Owen, who exasperated the Commissioners appointed to conduct the examinations by declaring that he did not know either Oldcorne\* or his own master. An acknowledgment of his acquaintance with Garnet was extracted from him† by fastening his thumbs to a beam above his head. His fear lest the torture should be repeated worked upon his mind to such an extent, that on the following day he committed suicide.‡

Owen's  
torture and  
suicide.

The Government having in vain tried all ordinary means of shaking Garnet's constancy, determined to resort to stratagem. He and Oldcorne were removed to two rooms adjoining one another, between which a communication existed by means of a door. Two persons were placed in a concealed position, from which they might be able to overhear all that passed.§ By

Admission  
obtained  
from  
Garnet by  
stratagem.

\* This was his real name. Like the other priests, he had many aliases, and at this time he was generally known as Hall.

† Examination of Owen, Feb. 26th and March 1st 1606, *G. P. B.*

‡ *Antilogia*, p. 114. The Catholics accused the Government of torturing him to death. 'There is, perhaps, no great difference,' observes Mr. Jardine, 'between the guilt of homicide by actual torture, and that of urging to suicide by the insupportable threat of its renewal' (p. 200).

§ The reports of the overheard conversations are printed in Jardine, App. ii. He remarks on them (p. 203), 'It is impossible to peruse the notes of these conferences without being struck with the remarkable fact that, although speaking the whole secrets of his heart unreservedly to his friend, Garnet does not utter a word in denial of his knowledge of the plot, and his acquiescence in it; nor a word from which it can be implied that in

CH. V.  
1606.

these means the Government were put in possession of information which enabled them to frame their questions so as to obtain more satisfactory answers.

Garnet at first denied that he had ever conversed with Oldcorne through the door at all. At last, after much questioning, he admitted that he had been for some length of time in communication with the principal conspirators. His story was, that soon after the King's accession Catesby told him that 'there would be some stirring, seeing the King kept not promise;'<sup>\*</sup> that, about Midsummer 1604, he came to him again, and 'insinuated that he had something in hand,' but told him no particulars; that, soon afterwards, Greenway informed him that there was some scheme on hand, upon which he expressed his disapproval both to Catesby and to Greenway. He also acknowledged that, about Easter, 1605, Fawkes obtained from him a letter of introduction to Baldwin, when he went to Flanders; and that on the 9th of June, in the same year,<sup>†</sup> Catesby sought him out and asked him a question, which was intended to draw out his opinion on the lawfulness of the action in which he was engaged, without letting him know what that action was. The question was, whether it was lawful to enter upon any undertaking for the good of the Catholic cause if it should be impossible to avoid the destruction of some innocent persons together with the guilty; to which he allowed that he answered in the affirmative, but declared that he did not understand the particular application of the question. He admitted, however, that towards the latter end of July he was fully

his conscience he knew that he was untruly accused in this respect. On the contrary, the whole scope and object of his conversation is the arrangement of the means by which he may baffle examination and elude detection — his only care being to "contrive safe answers," and — to use his own language — "to wind himself out of this matter."

<sup>\*</sup> Declaration of Garnet, March 13th, *S. P. Dom.* xix. 41.

<sup>†</sup> Examination of Garnet, March 12th, *S. P. Dom.* xix. 40. He says that this took place on the Saturday after the Octave of Corpus Christi. In 1605 the Octave fell on June 7th, and the Saturday after was June 9th. This is the day mentioned in Garnet's indictment. I do not, therefore, understand Mr. Jardine's difficulty 'in ascertaining from the evidence the exact consultation to which this charge in the indictment was intended to apply' (p. 229).

informed of the plot by Greenway; but he declared that, as this information was obtained in confession,\* CH. V.  
1606. he was bound not to reveal it. He insisted that he had used every endeavour to prevail upon the conspirators to desist from their undertaking. Yet when Baynham went into Flanders, he gave him a letter to Baldwin, but only, as he said, to commend him as a soldier.† On All Saints' Day, in the celebration of the mass, he had prayed for the good success of their business at the beginning of the Parliament; 'but,' as he observed to Oldcorne in one of the conferences which led to the detection of his guilt, 'I may answer that well, for I will say it is true that I did doubt that at this Parliament there would be more severe laws made against the Catholics, and therefore I made those prayers.'

Garnet's trial took place at Guildhall‡ on the 28th of March. The point which was selected as affording a proof of his complicity, was the conversation with Catesby on the 9th of June. Evidence which would have satisfied a modern jury there was none; but it would be unfair to censure the Government for disregarding the principles of evidence while as yet those principles were unknown. In fact, the scene at Guildhall was a political rather than a judicial spectacle. Neither those who were the principal actors, nor the multitude who thronged every approach to the hall, regarded it as the sole or even as the chief question, whether the old man who stood hopeless but undaunted at the bar, and who, even by his own confession, had been acquainted with the recent conspiracy, had looked upon it with favour or with abhorrence. It was to them rather an opportunity which had at last been gained, of striking a blow against that impalpable system which seemed to meet them at every turn, and

Garnet's  
trial.

\* Garnet's account varied. Sometimes he learned the secret 'in confession;' at other times it was 'by way of confession;' at another time 'he took it for a confession.' Eudæmon Johannes probably furnishes the true explanation (p. 327). Greenway was seeking advice from a superior on a question submitted to him in confession, and this was considered as equivalent to an original confession.

† Examination of Garnet, March 6th, *S. P. Dom.* xix. 16.

‡ *State Trials*, ii. 218. *Harl. MS.* 360. fol. 109.

CH. V.  
1606.

which was the more terrible to the imagination because it contained elements with which the sword and the axe were found to be incapable of dealing. Any man who should have hinted that it was inexpedient that men should be put to death unless their guilt could be proved by the clearest evidence, would have been looked upon as a dreamer, only fit for Utopia. The Pope was still too much dreaded to make it possible that fair play should be granted to the supporters of his influence. He was not yet what he became in the days of Bunyan, the old man sitting in his cave, hopelessly nursing his impotent wrath. His power was, to Burghley and Salisbury, a power which was only a little less, and which might any day become greater, than their own. They thought that if they could get the wolf by the ears, it was the wisest policy, as well as the strictest justice, to hold it fast.

Coke's  
speech.

In his speech for the prosecution,\* Coke attempted to show that the conspiracies which had from time to time broken out in late years had their root in the practices of the Jesuit Society. He asserted that all the plots which had disturbed the repose of Elizabeth had originated with the priests. He told the story of the breves which had been received by Garnet before the death of Elizabeth, in which all Catholics were charged not to submit to any successor unless he would not only give toleration, but also would 'with all his might set forward the Catholic religion, and, according to the custom of Catholic princes, submit himself to the See Apostolical.' Garnet had kept these breves till after the death of the Queen, and had only destroyed them when he found them to be of no avail. Coke then mentioned the two interviews in which Catesby had thrown out vague hints of his intentions, and then passed to the conversation of the 9th of June, which was the act of treason with which Garnet was charged in the indictment. The question was, whether in declaring it to be lawful to destroy some innocent persons together with the guilty, Garnet had merely given an

\* *State Trials*, ii. 229.



answer to an abstract question, or whether he knew that Catesby referred to a plot against the King. If the latter were the case, he was both technically and morally guilty of treason.

CH. V.  
1606.

Of this knowledge there was no legal proof whatever. Here, therefore, in our days the case would at once have broken down. But there was strong corroborative evidence derived from Garnet's apparent approval of the plot at a subsequent period, of which Coke was not slow to avail himself. He showed that Garnet was acquainted by Greenway with the conspiracy at least as early as in July;\* and he then proceeded to allege facts† which certainly went to show that he had never evinced any disapproval of the plot. When Baynham was sent by the traitor into Flanders, it was Garnet who furnished him with a recommendation. In September, Garnet went down to Coughton, from whence he proceeded on a pilgrimage to St. Winifred's Well, together with a large number of persons, most of whom were in some way connected with the conspiracy. Was it possible that he would have been allowed to accompany the party as a priest if he had expressed his abhorrence, as he said that he had, of that which was undoubtedly the subject of the prayers which many of them offered on this occasion? Even if this had been the case, he would surely have left the party as soon as possible. Instead of that, he remained at Goathurst, the house of Sir Everard Digby, until the family removed to Coughton, when he accompanied them to the very place which had been selected as most appropriate for carrying out the scheme of insurrection which was to follow upon the success of the plot. When there, he requested his little congregation, on All Saints' Day, to pray 'for some good success for the Catholic cause at the beginning of Parliament.'‡ It was utterly

Want of  
proof of  
the real  
nature of  
the con-  
versation  
with  
Catesby.

\* 'June,' in *State Trials*, ii. 229; but see *Examination of Garnet*, March 12th, *S. P. Dom.* xix. 40.

† Coke merely states facts, without attempting any argument. The arguments which are here given are extracted and abridged from Mr. Jardine's admirable chapter on the question of Garnet's guilt.

‡ He also sung the following verse of a hymn:

'Gentem auferte perfidam  
Credentium de finibus;  
Ut Christo laudes debitas  
Persolvamus alacritè.'

CH. V.

1006.

The indictment avoids mentioning the interview with Greenway.

in vain for him to pretend that, knowing what he did know, he merely asked that they should pray for the mitigation of the penal laws.

It is worthy of notice, that while the indictment charged Garnet with an act of treason which it was impossible to prove, it neglected to mention the conversation with Greenway about which no doubt whatever existed. In taking this course, the Government was probably influenced by a not unnatural want of moral courage. They knew that the jury would not be particular in inquiring into the proof of the charge which they brought, and they probably considered the indictment to be a merely formal act. On the other hand, they were aware that the knowledge which Garnet derived from Greenway was obtained under the seal of confession, and they were certain that they would be assailed with the most envenomed acrimony by the whole Catholic world, if they executed a priest whose crime was that he had not revealed a secret entrusted to him in confession. They shrunk from taking their stand upon the moral principle that no religious duty, real or supposed, can excuse a man who allows a crime to be committed which he might have prevented, and they preferred to be exposed to the charge of having brought an accusation which they were unable to prove.\*

Garnet's defence.

Garnet's defence was, that he had never heard of the plot, excepting in confession. To this he added the improbable story, that when Catesby offered to give him full information, he refused to hear him, because 'his soul was so troubled with mislike of that particular, as he was loth to hear any more of it.†' As a matter of course, the jury found a verdict of Guilty.

His ideas on truth and falsehood.

The execution was deferred. Garnet was again examined several times after his conviction, and there

Mr. Jardine states that the hymn from which this verse is taken was authorised to be used on All Saints' Day. There can, however, be no doubt that on this occasion it was sung with peculiar fervour.

\* Both Andrewes and Abbot urge the plea that whoever becomes acquainted with an intended crime, and neglects to reveal it, becomes an accomplice; but they do not give it the prominence that it deserves.—*Tortura Torti*, Works of Bishop Andrewes, Oxford, 1851, p. 365, and *Antilogia*, cap. 13.

† *State Trials*, ii. 242.

may possibly have been some inclination on the part of the King to save his life. But the Jesuitical doctrine on the subject of truth and falsehood which he openly professed was enough to ruin any man. There was nothing to make anyone believe in his innocence, except his own assertions, and the weight of these was reduced to nothing by his known theory and practice. His doctrine was that of the Treatise of Equivocation which had been found in Tresham's room, and which had been corrected by his own hand. He not only justified the use of falsehood by a prisoner when defending himself, on the ground that the magistrate had no right to require him to accuse himself, but he held the far more immoral doctrine of equivocation. According to this doctrine, the immorality of a lie did not consist in the deception practised upon the person who was deceived, but in the difference between the words uttered and the intended meaning of the speaker. If, therefore, the speaker could put any sense, however extravagant, upon the words of which he made use, he might lawfully deceive the hearer, without taking any account of the fact that he would be certain to attach some other and more probable meaning to the words. The following example given in the treatise, was adopted by Garnet:\*

'A man cometh unto Coventry in time of a suspicion of plague. At the gates the officers meet him, and upon his oath examine him whether he come from London or no, where they think certainly the plague to be. This man, knowing for certain the plague not to be in London, or at least knowing that the air is not there infectious, and that he only rid through some secure place of London, not staying there, may safely swear that he came not from London, answering to their final intention in their demand, that is whether he came so from London that he may endanger their city of the plague, although their immediate intention were to know whether he came from

\* *Treatise on Equivocation*, p. 80. See the quotation from Casaubon's letter to Fronto Ducaeus, in Jardine, p. 334. Garnet held that equivocation was only to be used 'where it becomes necessary to an individual for his defence, or for avoiding any injustice or loss, without danger or mischief to any other person.'

CH. V. London or no. This man the very light of nature would  
1808. clear from perjury.'

This reduction of lying to a theory, which was only checked by the illusory safeguard that it was not to be used except for some legitimate purpose, may explain why those who adopted Garnet's opinions were so long in obtaining toleration in England. A nation requires a long experience of liberty before it can permit the public inculcation of such doctrines as these, or can understand that in an atmosphere of toleration they will wither away of themselves.

Execution  
of Garnet.

At last, after vain attempts to extract further information, Garnet was executed on the 3rd of May, maintaining to the last that he knew nothing of the plot, excepting under the seal of confession.

Garnet's  
straw.

Soon afterwards, all Catholic Europe was listening with eager credulity to the story of the miraculous straw. It was said that one of the straws used upon the scaffold had been found to have a minute likeness of Garnet's head upon one of the husks. The miracle was trumpeted abroad by those who should have known better, and found its way from common conversation into the pages of grave historians. An inquiry was instituted by the Government, and it was found that some who had seen the straw declared that there was nothing wonderful in the matter at all, and that the drawing could have been easily executed by any artist of moderate skill.

Execution  
of Old-  
corne.

Oldcorne was taken down to Worcester, where he was convicted of treason and executed. Abington also was sentenced to death, but was finally pardoned. The priests and others implicated in the conspiracy, who were in Flanders, were beyond the reach of the Government, as the Archduke steadily refused to give them up.

It only remained to deal with the lords who had given cause of suspicion, by a determination to absent themselves from the meeting of Parliament. Montagu escaped from the Star Chamber with a payment of £4,000, Stourton with a fine of £1,000, whilst Mordaunt was set free upon paying £200 to the Lieutenant of the Tower.\*

\* The original fines were, as usual, larger than those ultimately demanded.

Northumberland was a prisoner of greater importance. His connection with Percy brought him under suspicion, and the fact that Percy had come down to Sion House to speak to him the day before the meeting of Parliament, was not calculated to remove suspicion from him.

He was examined on the nature of his dealings with Percy, but nothing was elicited to his disadvantage. At least up to the 3rd of March, Salisbury expressed his belief in his innocence, though he supposed that he had probably received some general warning from Percy.\* On the 27th of June, he was brought before the Star Chamber, and was forced to listen to a long and passionate harangue from Coke, who, after mentioning, as he had done in Raleigh's case, all manner of plots with which he was unable to prove that the prisoner had ever been connected, charged him with having committed certain contempts and misdemeanours against the King. His employment of Percy to carry letters to James in Scotland was brought against him, as if he had attempted to put himself at the head of the Catholic party. It was also objected that after the discovery of the plot he had written letters to his tenants, directing them to keep his rents out of Percy's fingers, but saying nothing about the apprehension of the traitor. Amidst these trivialities appeared a charge of a graver nature. On the 9th of June, 1604, at the very time when Percy had just signed the lease for the house at Westminster, that traitor had been admitted as one of the gentlemen pensioners, whose office it was to be in daily attendance upon the King. Not only had Northumberland admitted him to this post, in virtue of his position as Captain of the Pensioners, but he had admitted him without requiring the Oath of Supremacy, and, if Coke is to be believed, had afterwards denied the fact that the oath had not been administered. Northumberland must have committed this dereliction of duty with his eyes open, as shortly after the King's accession he had received a letter from James, distinctly ordering that no one was to be admitted as a pensioner

CH. V.

1606.

Suspensions  
against  
Northum-  
berland.

His trial in  
the Star  
Chamber.

\* Salisbury to Edmonds, Dec. 2nd, 1605. Birch., *Negotiations*, 242. Salisbury to Brouncker, March 3rd, 1606, *S. P. Ireland*.

CH. V. who refused to take the oath.\* By this weakness—for  
1803. undoubtedly it was no more than a weakness—he had  
disobeyed the orders given him, and had placed about  
the person of the King a man who was engaged in  
plotting his death. Indeed, it was by the opportunities  
offered to him by his position as a pensioner that Percy  
hoped to be able to carry out that part of the plot which  
related to the seizure of Prince Charles.†

The  
sentence.

The sentence was, that the Earl should forfeit all the  
offices which he held under the Crown, should be im-  
prisoned during the King's pleasure, and should pay a  
fine of £30,000, a sum which was afterwards reduced  
to £11,000.

It was supposed at the time,‡ and it has since been  
generally believed, that this harsh sentence was dictated  
by political feeling, and by a desire to get rid of a  
spirited rival. It may have been so, and it would have  
been strange if, with a Court composed as the Star  
Chamber was, such feelings had been altogether ex-  
cluded. Yet it must be remembered that the admission  
of Percy without requiring the oath from him was no  
light fault, and that it was one which was likely to  
make its full impression upon the timid mind of James.  
It is possible that the nature of this fault had not come  
to light till a short time before the trial, as Cecil, in a  
letter of the 3rd of March, does not refer at all to the  
omission of the oath.§ Perhaps it may have been the

\* The King to Northumberland, May 18, 1603, *S. P. Dom.* i. 81.

† App. i. Compare *Add. MS.* 5494, fol. 61.

‡ Boderie to Villeroi, <sup>June 26,</sup>  
<sup>July 6,</sup> 1606. *Ambassades de M. De la Boderie*,  
L. 180. This letter proves that the sentence was agreed upon at least the day  
before the trial.

§ This letter to Brouncker, before quoted, reads like the production of a  
man who meant what he said. Besides, there was no conceivable reason for  
a hypocrite to mention the subject at all in writing to the President of  
Munster. Salisbury writes: 'For the other great man, you know the  
King's noble disposition to be always such as, although he may not in such  
a case as this forget the providence and foresight necessary in cases public,  
and therefore was constrained, upon many concurring circumstances, to  
restrain liberty where he had cause of jealousy, yet, considering the great-  
ness of his house, and the improbability that he should be acquainted with  
such a barbarous plot, being a man of honour and valour, his Majesty is  
rather induced to believe that whatsoever any of the traitors have spoken of  
him, hath been rather their vaunts than upon any other good ground; so as  
I think his liberty will, the next term, be granted upon honourable and

full discovery of the particulars of this transaction which turned the scale against the Earl.

Undisturbed by the discovery of the danger which had been so happily averted, the Parliament for which such a sudden destruction had been prepared, had quietly met on the 5th of November. In the Upper House no business was done, but the Commons, with extraordinary self-command, applied themselves to the regular routine of business. It is difficult to understand how these men, scarcely snatched from death, betook themselves, without apparent emotion, to such matters as the appointment of a committee to inquire into the regulations of the Spanish trade, and the discussion of the petition of a member who asked to be relieved from his Parliamentary duties because he was suffering from a fit of the gout.

On the 9th the King came down to the House of Lords, and commanded an adjournment to the 21st of January, in order that time might be given for further inquiry into the ramifications of the conspiracy.

On their reassembling, the attention of the Houses was necessarily directed to the danger from which they had escaped. A Bill was eagerly passed, by which the 5th of November was ordered to be kept as a day of thanksgiving for ever.\* That Act continued in force for more than two centuries and a half, and was only repealed when the service which was originally the outpouring of thankful hearts had long become an empty form.

A Bill of Attainder† was also passed, in which the names of Owen, who was still bidding defiance to the law, and of Tresham, who had died in prison, were included with those of the conspirators who had been killed at Holbeach, or who had been executed in London. The immediate effect of such an Act was that the lands and goods of the whole number were at once forfeited to the Crown.

CH. V.

1606.

Meeting  
of Parlia-  
ment.Adjourn-  
ment.The 5th  
of Novem-  
ber set  
apart as a  
day of  
thanks-  
giving.Bill of At-  
tainder.

gracious terms, which for my own part, though there hath never been any extraordinary dearth between us, I wish, because this State is very barren of men of great blood and great sufficiency together.'

\* 3 Jac. I., cap. 1.

† 3 Jac. I., cap. 2.

## CH. V.

1608.

Proposal  
to inflict  
extraordi-  
nary  
punish-  
ment on  
the  
offenders.

There had been, indeed, some who thought these proceedings insufficient. A few days before the prisoners were brought up for trial, a member of the House of Commons moved for a petition to the King, praying him to stay judgment until Parliament should have time to consider of some extraordinary mode of punishment, which might surpass in horror even the scenes which usually occurred at the execution of traitors.\* To the credit of the House, this proposal met with little favour, and was rejected without a division. A similar attempt in the House of Lords met with the same fate.† It is pleasant to know that the times were already past in which men could be sentenced by Act of Parliament to be boiled alive, and that, in the seventeenth century, if London had some horrible sights still to see, it was, at least, not disgraced by scenes such as those which, a few years later, gathered the citizens of Paris round the scaffold of Ravallac.

New laws  
against the  
recusants.

It can hardly surprise us that, in spite of this general feeling against the infliction of extraordinary punishments, Parliament had no scruple in increasing the severity of the recusancy laws.‡ For the first time, a sacramental test was to be introduced into the service of persecution. It was not to be enough that a recusant had been brought to conformity, and had begun once more to attend the parish church; unless he would consent to receive the sacrament from the hands of the Protestant minister, he was to be called upon to pay a heavy fine. It is impossible to conceive a greater degradation of that rite which the whole Christian Church agrees in venerating.

In order to stimulate the activity of the church-wardens and the parish constables, it was enacted that a fine of twenty shillings should be laid upon them whenever they neglected to present persons who absented themselves from church; and that, on the other hand, they should receive a reward of double the amount upon every conviction obtained through their means.

\* C. J., Jan. 24, i. 259.

† L. J., Jan. 30, ii. 365.

‡ 3 Jac. I., cap. 4 and 5.



Up to this time, the very rich had escaped the extreme penalties of recusancy, as, when once they had paid the monthly fine, the law had no further claim upon them, though the amount of their fine might be of far less value than the two-thirds of the profits of their estate which would have been taken from them if they had been poorer men. The King was now empowered to refuse the fine and to seize the land at once. In order that the poorer Catholics might feel the sting of the law, a penalty of £10 was to be laid every month upon all persons keeping servants who absented themselves from church. By this means, it was thought that the numerous servants in the houses of the Catholic gentry would be driven into conformity or deprived of their employment.

CH. V.  
1606.

This was not all: it was ordered that no recusant should appear at Court; or even remain within ten miles of London, unless he were actually engaged in some recognised trade or employment. A statute of the late reign was also confirmed, which prohibited recusants from leaving their houses for any distance above five miles.\* It may be allowed that recent experience justified the exclusion of the Catholics from all public offices in the State; but it was hard to forbid them from practising at the bar, from acting as attorneys or as physicians, or from executing trusts committed to them by a relative as executors to his will, or as guardians to his children. Further penalties awaited them if they were married, or suffered their children to be baptized, with any other rites than those of the Church of England. All books inculcating the principles of their religion were to be destroyed, and permission was given to the justices of the peace to visit their houses at any time, in order to deprive them of all arms beyond the little stock which might be considered necessary for the defence of their lives and property.

These harsh measures were accompanied by the imposition of a new oath of allegiance. This oath was framed for the purpose of making a distinction between

The new  
oath.

\* 35 Eliz. cap. 2.

CH. V. the Catholics who still upheld the Pope's deposing  
 1606. power and those who were willing to denounce that tenet. Objectionable as all political oaths are, and unjust as are the penalties which are inflicted on those who refuse to take them, the introduction of a declaration of loyalty might, at this time, have been made to be a step in the right direction. If, from ignorance of political principles, it was thought necessary that Catholics should be punished at all, it was better that they should suffer for refusing to acknowledge that their Sovereign possessed an independent authority than that they should suffer for refusing to go to church. It was in some degree creditable to James and his ministers that, at such a time, they were able to remember the possibility of making a distinction between the loyal and the disloyal amongst the Catholics; but that which might have been an instrument of good, became in their hands an instrument of persecution. It was enacted that those who refused the oath should incur the harsh penalties of a premunire, whilst those who took it still remained subject to the ordinary burdens of recusancy. The oath which might have been used to lighten the severity of the laws which pressed so heavily even upon the loyal Catholics, was only employed to increase the burdens upon those who refused to declare their disbelief in a tenet which was inculcated by the most venerated teachers of their Church, and which might be held innocuously by thousands who would never dream of putting it in practice.

Canons  
 drawn up  
 by convo-  
 cation.

Parliament had thus replied to the miserable crime of a few fanatics by the enactment of an unjust and barbarous statute. Convocation determined to seize the opportunity of enunciating those principles of government which were considered by its members to be the true antidote against such attempts. Under Bancroft's guidance, a controversial work\* was produced, to which, as well as to the canons which were interspersed amongst its pages, that body gave its unanimous consent. These canons, as well as the arguments by

\* Published in 1690, under the title of *Bishop Overall's Convocation Book*.

CH. V.  
1606.

which they were accompanied, have been, in later times, justly condemned as advocating, at least indirectly, an arbitrary form of government. It should, however, in justice to the men by whom they were drawn up, be remembered that, if the solution which they proposed for the difficulties of the time was not a happy one, it was at least put forward with the intention of meeting actual and recognised evils. Their argument indeed struck at Papist and Presbyterian alike, but it was evident that it was intended as a manifesto against the Church of Rome. That Church had based its assaults on the national sovereignties of Europe upon two distinct theories: at times the right of the Pope to depose kings had been placed in the foreground; at other times resistance was encouraged against constituted authorities under the guise of the democratic doctrine of popular sovereignty. In the name of the one theory, England had been exposed to invasion, and Elizabeth had been marked out for the knife of the assassin; in the name of the other theory, the fair plains of France had been deluged with blood, and her ancient monarchy had been shattered to the base. All true-hearted Englishmen were of one mind in condemning the falsehood of the principles which had produced such results as these. Government, they believed, was of Divine institution, and was of far too high a nature to be allowed to depend upon the arbitrary will of the Pope, or of any body of clergy whatever; still less should it depend upon the equally arbitrary will of the people; it ought not to be based upon will at all, it was only upon right that it could rest securely.

The treatise in which the Bishops and their supporters attempted to build up a defence for themselves against the enemy, is remarkable as a sign of the change which had come over the Church of England during the few years which had elapsed since Hooker had written his great work. Between the clear but one-sided reasoning of the treatise produced by the Convocation, and the noble inconsistency of the Eighth Book of the 'Ecclesiastical Polity,' a whole century seems to have intervened.

CH. V.  
1606. Hooker gives us ideas in profusion, thrown headlong upon one another, but bound together by the living vigour of the master's hand. Bancroft gives us a cold and repulsive theory, which was one day to find its proper place, but which is most unattractive as it stands. Of the rest of Hooker's theory, part had found a refuge in the House of Commons; part, strange to say, amongst the Puritans. The day was to come when these fragments of truth could no longer be separated, but would be once more united together as a living but more perfect whole, the beauty of which Hooker would have been the first to recognise.

It can hardly be a matter of surprise, that in their resistance to arbitrary government of one kind, the Bishops failed to perceive that they were giving their support to another and worse form of the same evil; for it appeared under the beneficent form of a Sovereign from whom they received nothing but kindness and protection. Not a suspicion ever crossed their minds that their cause was not the cause of God, and they knew that for the support of that cause they could depend upon the King alone. That the people could be moulded into piety by their ecclesiastical system, was one of the first articles of their creed, and it was plain that, without the King's help, their system would crumble into dust. Was it wonderful, then, that they thought less of the law and more of the Sovereign than their lay fellow-countrymen? Was it strange that they read history and Scripture with jaundiced eyes, and that they saw nothing there but the doctrine that, in each nation, the power of the Sovereign who for the time being occupied the throne, was held by the special appointment of God, and that this power was of such a nature, that under no imaginable circumstances was it lawful to resist it? The fact was, that the rule of James appeared to them as the rule of right over lawlessness, and that they gladly elevated into a principle that which, in their eyes, was true in the individual case.

Consequences of the doctrine of non-resistance.

But whatever may have been the circumstances under which the doctrine of non-resistance originated, it is certain that it was false in itself, and that it hung like

a blight for many years over the energies of England. If it had ever obtained general recognition, it would have cut at the root of all that has made the nation to be what it is; it would have eaten out that sense of right, and that respect for the law, which is at the bottom of all the progress of the country.

Strange as it may seem, the first blow directed against this elaborately-constructed theory came from the King himself. A doctrine which based his claim to the obedience of his subjects merely upon the fact of his being in possession of the Crown, was not likely to find much favour in his eyes. According to this reasoning, as he justly observed, if the King of Spain should ever conquer England, his own subjects would be precluded from attempting to shake off the yoke of the invader. Nor was it only to that part of the canons which struck at his own hereditary title that James objected: he told the astonished clergy plainly that, whatever they might think, it was not true that tyranny could ever be of God's appointment. He was himself desirous to maintain the independence of the Dutch, and he did not believe that in so doing he was assisting them to throw off an authority ordained of God.\* He accordingly refused to give his consent to this unlucky production of the Convocation.

If the theories of the Bishops gave offence to the King, they were far more likely to provoke opposition on the part of those who were looking to the law of England as the one great safeguard against arbitrary power of every description. The Canons of 1604 had given umbrage to the Commons, especially as, in ratifying them, James had commanded them to 'be diligently observed, executed, and equally kept by all our loving subjects of this our Kingdom.'† The Commons, of course, resented this claim of the clergy to legislate for the whole people of England, and especially their attempt to create punishable offences, a right which they held to be inherent in Parliament alone. A Bill was accord-

CH. V.  
1606.

James's  
letter to  
Abbot.

The Commons protest against the opinion that Convocation can pass canons which are binding without consent of Parliament.

\* The King to Abbot. Wilkins, *Conc.* iv. 405.

† Cardwell's *Synodalia*, 328.

CH. V.  
1806.

ingly brought in, in the course of the following session, for the purpose of restraining the execution of all canons which had not been confirmed by Parliament. The Bishops, however, had sufficient influence to procure its rejection by the House of Lords.

The oath  
of allegi-  
ance.

Whatever the Catholics may have thought of this production of the Convocation, the oath of allegiance was a far more serious matter. It had been, indeed, framed with the intention of making it acceptable to all loyal persons. The Pope's claim to excommunicate Sovereigns was left unquestioned. The oath was solely directed against his supposed right of pronouncing their deposition, and of authorizing their subjects to take up arms against them. Those who took it were to declare that no such right existed, to promise that they would take no part in any traitorous conspiracies, and to abjure the doctrine that excommunicated princes might be deposed or murdered by their subjects.

The de-  
posing  
power of  
the Popes.

To the oath itself it is impossible to find any reasonable objection. If there had ever been a time when the infant nations required the voice of the Pope to summon them to resist tyranny, that time had long passed by. The deposing power in the hands of the Popes of the sixteenth century had been an unmixed evil. The only real fault to be found with the oath was, that it should ever have been framed at all. Its framers were probably afraid lest those who took it should refuse to be bound by their words; but they were sufficiently ignorant of human nature to forget that there would be many who would refuse to take the oath, who would yet be perfectly contented to live as loyal subjects. Men who would have been satisfied to allow the deposing power to be buried in the folios of theologians, and who would never have thought of allowing it to have any practical influence upon their actions, were put upon their mettle as soon as they were required to renounce a theory which they had been taught from their childhood to believe in almost as one of the articles of their faith. Nor would their tenacity be without a certain moral dignity. Unfounded and pernicious as the Papal theory was, it certainly gains by comparison with that

mere adoration of existing power which had just been put forth by Convocation as the doctrine of the Church of England.

CH. V.  
1603.

As might have been expected, there was a difference amongst the English Catholics as to the lawfulness of taking the oath. Shortly after the prorogation, a meeting was held at the house of Blackwell, the Archpriest, at which five other priests were present. Blackwell himself had at first doubted whether he might take the oath; but he finally became persuaded that he might lawfully do so, on the curious ground that as the Pope could not depose James without doing harm, it might be said, generally, that he could not do it, and if he could not do it, he certainly had no right to do it. Two of those present were convinced by this strange logic, but the three others held out. Blackwell allowed it to be publicly known that he saw no objection to the oath, but attempted, not long afterwards, to recall an opinion in which he found that he differed from the greater number of the priests.\*

The English Catholics differ as to the lawfulness of taking the oath.

The opponents of the oath determined to refer the difficulty to Rome. Unhappily, Clement VIII. was dead, and of all men then living Paul V. was the least fitted to deal with such a question. At the death of his predecessor, the College of Cardinals was divided into two bitterly opposed factions; they agreed to unite upon the name of a man who was indifferent to both. The new Pope had passed his life in retirement and study. The cardinals imagined that they had found a man who would remain isolated among his books, and would leave all political interests and emoluments to them. It was not the first time that the cardinals had elected a Pope under the influence of similar feelings. It is certain that they were never more bitterly disappointed than they were on this occasion: they knew that the man whom they had chosen was a student, but they had forgotten that his studies had been chiefly confined to the canon law. The world in which he lived was one which had long

The Pope consulted.

\* Mush to —, July 11th, 1603. Tierney's *Dodd.* App. 136.

CH. V.  
1606.

The Pope  
tries to  
open ne-  
gotiations  
with  
James,

passed away from the earth. To him all the claims of the Gregorys and the Innocents were indisputable rights, and the boldest assertions of the decretals were the fundamental axioms of Divine and human wisdom. A man of the world would have felt instinctively the change which had passed over Europe since the thirteenth century. Paul knew nothing of it. In a few months after his election, in the spring of 1605, he was flinging his excommunications broadcast over Italy, and in little more than a year he had brought himself to an open rupture with the powerful Republic of Venice.

His first step towards James was conciliatory. As soon as he heard of the discovery of the plot, he despatched an agent to London, in order to obtain from the King some promise of better treatment for the Catholics, and to assure him of his own detestation of the attempted course.\* As might have been expected in the excited state in which men's minds were, these negotiations led to nothing.

The news of the promulgation of the new oath was calculated to rouse the bitterest feelings of indignation in the mind of Paul. All who were around him urged him to take some step against such an insolent invasion of his rights. A meeting had been held at Brussels by the English Jesuits who were in the Archduke's dominions, and they despatched two messengers to press the Pope to sustain the cause of the Church.†

Paul did not stand in need of much pressure on such a subject. On the 22nd of September, he issued a breve,‡ in which the oath was condemned, and the English Catholics were told that they could not take it without peril of their salvation. Care was, however, taken not to specify what particular clause of the oath was considered to be liable to objection.

but con-  
demns the  
oath.

When the breve arrived in England, Blackwell, who was one of those men who never look a difficulty in the

\* Villeroi to Boderie, Aug. 16, 1606. *Ambassades de M. de la Boderie*, i. 284.

† Boderie to the King of France, July 16, 1606, *Boderie*, i. 200. Edmondes to Salisbury, Sept. 7, 1606, *S. P. Flanders*.

‡ Tierney's *Dodd* iv. App. 140.



face if they can help it, took advantage of some informality connected with the channel by which it had reached him to throw doubts on its authenticity. Accordingly, a fresh breve was issued in the course of the following year,\* in which obedience was required to the former orders of the Pope.

CH. V.  
1606.

Before this second breve had come into his hands, Blackwell had been captured and committed to the Gate-house. Whilst there, he not only took the oath himself, but wrote a letter to the priests under his charge, recommending them to follow his example.† It is easy to conceive with what eyes this conduct was viewed at Rome. Cardinal Bellarmín immediately wrote to remonstrate with him, and, upon his justifying himself, he was deposed from his office.‡

1607.

Conduct  
of Black-  
well.

Already James had come forward to defend his favourite oath with his pen. An apology for the oath, written by the Royal controversialist, appeared early in 1608, which was soon answered by Bellarmín. The appearance of these works gave the signal for an outburst of controversy in which the ablest pens on both sides were engaged. As far as the oath was concerned, the King and his supporters were able to hold their ground. Bellarmín was only able to impugn its reasonableness by maintaining the claims of the Pope in the baldest and most offensive terms. When James urged that he was merely asking for an acknowledgment of civil obedience, his opponent could only reply by assuring him that the power of deposing kings was committed to the Pope by Divine appointment.§ On the other hand, Bellarmín was clearly in the right in refusing to accept James's plea, that he was not persecuting the Catholics on account of their religion. The King seems to have thought, that because he did not impose any penalties upon religious belief considered

1608.

Contro-  
versy re-  
specting  
the oath.

\* Aug. 23, 1607, Tierney's *Dodd.* iv. App. 146. See also the note at p. 73, in the body of the work.

† Blackwell to his Clergy, July 7, 1607, Tierney's *Dodd.* App. 147.

‡ Bellarmín to Blackwell, Sept. 23. Blackwell to Bellarmín, Nov. 13, 1607. Breve deposing Blackwell, Feb. 1, 1608.—Tierney's *Dodd.* App. 148-150.

§ *Responsio ad Apol. pro Jur. Fid.*, Col. Ag. 1610, p. 8.

CH. V.

1608.

apart from the act to which such belief necessarily led, he was clear from the accusation brought against him. Such a theory might do very well among the English Protestants, but it would not stand the test of examination in the face of Europe. On the whole, an impartial observer will pronounce that, while James was successful in proving that the Catholics ought never to have objected to taking the oath, he failed to make it clear that he himself ought ever to have imposed it.

1606.

Treat-  
ment of  
the priests.

It would have been well if the quarrel between the King and the Pope had been restrained within the limits of a literary controversy. At first indeed, before Paul had declared himself, James was unwilling to proceed to extremities. He tried his old plan of banishing the priests, and sent across the sea as many as he could lay his hands upon. In a few months they were all back again in England. When, however, he heard of the Pope's breve, he decided upon taking harsher measures. Orders were given to the judges to put the law into execution against a few priests by way of terrifying the rest.\* In consequence, a priest was executed within a few days, and in the course of the following year three more shared his fate.

Feb. 15,  
1607.

Sufferings  
of the  
laity.

The treatment of the laity was equally rigorous. The wretched sacramental test, indeed, was rendered nugatory by the good sense of the Government; nor were the fines for keeping recusant servants inflicted,† though, upon the promulgation of the statute, great distress had been caused amongst a large number of Catholic servants, who were discharged through the unwillingness of their masters to incur the penalties of the Act; but a new commission was issued to lease out the lands of convicted recusants. Fresh names were added to the list, and larger sums than ever were wrung out of the unfortunate landowners. The way in which advantage was taken of that clause of the statute which related to those who had hitherto paid the £20 fine must have been peculiarly

\* *Lansd. MS.* 153, fol. 293.

† There is no trace in the Receipt Books of the Exchequer of any fine exacted either for not taking the sacrament, or for keeping recusant servants.

annoying. The King had now power to refuse this fine, and to seize two-thirds of the property. Instead of doing this, as had been intended, for the benefit of the Exchequer, he retained the fine himself, and granted to his favourites leave to extract bribes out of the owners by holding over them the threat of putting the statute in force.\* Of those who were not rich enough to pay the fine, and whose lands were seized, a large number saw their possessions pass into the hands of courtiers, to whom they were granted by the King.

But, whatever evil sprang from the stricter execution of the confiscatory statutes, it was as nothing when compared to the misery which resulted from the new oath. In vain the Catholics offered to take another oath, which would equally bind them to obedience, whilst it left the claims of the Pope unmentioned.† Such a compromise was rejected with scorn. There were, indeed, many of the Catholics, especially amongst the laity, who imitated the Archpriest in taking the oath. There were even many who, either terrified by the severity of the law, or dissatisfied with a Church which had counted Catesby and his associates among its members, deserted the religion which they had hitherto professed;‡ but numbers of loyal subjects stood firm in their refusal. The prisons were soon crowded with men who were not to be induced to betray their consciences. Even those who escaped actual ill-treatment lived in a state of constant insecurity. A miserable race of informers, and of officials who were as bad as the informers, swarmed over the country, who, knowing that by a word they could consign to ruin the master of the house into which they entered, allowed themselves to treat the inmates with the most overbearing insolence. These men cared much more about putting money into their own pockets than about procuring a conviction, which would enrich the King. Heavy bribes might buy them off, until they

CH. V.  
1607.

Consequences of  
refusing  
the oath.

\* This is the only possible explanation of the paper in Tierney's *Dodd*. iv. App. 75. The date of October 1605, there given, is a year too early, as the courtiers could make no profit of these men before the passing of the Act.

† Two forms are given in Tierney's *Dodd*. iv. App. 100.

‡ Edmondes to Salisbury, Sept. 7, 1606, *S. P. Flanders*.

CH. V.  
1607.

chose to return to renew their demands. Those who refused in this way to obtain a respite from their persecutors, were dragged off, often under circumstances of the greatest indignity, to the nearest justice of the peace, where the oath was tendered to them, on pain of being immediately committed to prison. The aged and the weak were not seldom subjected to personal violence. It frequently happened that those who escaped were reduced to beggary, and were compelled to subsist upon the charity of others who were left in possession of some little which they could, for the moment, call their own.\*

Emptiness  
of the Ex-  
chequer.

1603.

Anxious as the Government had been, during the session which followed upon the discovery of the Plot, to increase the powers which they already possessed for keeping the recusants in check, they were no less anxious to persuade the House of Commons to come forward with liberal supplies in relief of the King's necessities. Ever since the King's accession, the state of the Exchequer had been such as to cause no little trouble to those who were responsible for the administration of the finances. The long war had considerably affected, at least for a time, the resources of the Crown. Parsimonious as she was, Elizabeth had been compelled, during the last five years of her reign, to sell land to the value of £372,000,† and had besides contracted a debt of £400,000. There was, indeed, when James came to the throne, a portion still unpaid of the subsidies which had been voted in his predecessor's reign, which was estimated as being about equal in amount to the debt, yet if this money were to be applied to the extinction of the debt, it was difficult to see how the expenses of the Government were to be met. If the King had modelled his expenditure upon that of Elizabeth, he could hardly succeed in reducing it much below £330,000, and during the first years of his reign, his income from other than Parliamentary sources fell short of this by more than

\* The report of Father Pollard in Tierney's *Dodd*. iv. 160, should be read by all who wish to know what was the character of the scenes which took place at this time.

† Comparative Review of the Receipts and Expenditure, July 24, 1608, *S. P. Dom.* xxxv. 29.

£30,000.\* It is probable, indeed, that some of the revenue which should have supplied the wants of James had been anticipated by his predecessor. Either from this cause, or from some other reason connected with the returning prosperity consequent upon the cessation of the war, the receipts of 1604 were much larger than those of the preceding year. But whatever hope might be entertained on this account, was counter-balanced by the confusion caused by the extraordinary expenses which were likely for some time to press upon the Exchequer. The funeral of the late Queen, the King's entry and coronation, the entertainment of the Spanish ambassadors, and other necessary expenses, would entail a charge of at least £100,000, a sum which bore about the same relation to the income of 1603† as a sudden demand for £24,000,000 would bear to the revenue of the present day.

CH. V.  
1603.

1604.

Prospects  
of a  
remedy.

The financial position of James, therefore, was beset with difficulties. But it was not hopeless. If he had consented to regulate his expenditure by the scale of the late reign, he might, in the course of a few years, have found himself independent of Parliament, excepting in times of extraordinary emergency. There were many ways in which the revenue was capable of improvement, and it would not be many years before a balance might once more be struck between the receipts and the outgoings of the Exchequer; but there was little hope that, even if James had been less extravagant than he was, the needful economy would have been practised. Elizabeth had been her own minister of finance, and had kept in check the natural tendency to extravagance which exists wherever there is no control over the heads of the various departments of the State and of the Household. With her death this salutary control was at an end, and no official body similar to the present Board of Treasury was at hand to step into the vacant place. James, indeed, from time to time, was ready enough to

\* Compare the calculations in the Appendix with those in *Parliamentary Debates* in 1610, Camd. Soc., Introd. x. The latter do not include the Court of Wards and the Duchy of Lancaster, and they commence the year at Easter instead of at Michaelmas. The amount of the debt at James's accession, which is variously stated in different reports of speeches, is fixed by the official account in the *S. P. Dom.* xix. 45.

† That is to say, the income from unparliamentary sources. The subsidies were uncertain, and should have been applied to the redemption of the debt.

CH. V. express his astonishment at what was going on. He  
 1604. never failed to promise retrenchment whenever his attention was called to the state of his finances, and to declare that he had at last made up his mind to change his habits; but no sooner had some new fancy struck him, or some courtier approached him with a tale of distress, than he was sure to fling his prudence to the winds. The unlucky Treasurer was only called upon, when it was too late to remonstrate, to find the money as he could.

1605.  
 Growth of  
 the expen-  
 diture and  
 of the debt.

Every year the expenditure was growing. In the twelve months which came to an end at Michaelmas 1605, it had reached what in those days was considered to be, for a year of peace, the enormous sum of £486,000.\* To meet this every nerve had been strained in vain. The revenue had been improved, and the subsidies voted in the time of Elizabeth had been diverted from the repayment of the debt, in order to meet the current expenditure. Large debts had been incurred in addition to the debt which was already in existence. Money had been obtained by a forced loan bearing no interest, which had been raised by Privy Seals immediately after the close of the Session of 1604, and in addition to this easy mode of putting off the difficulty, recourse had been had to the ordinary method of borrowing considerable sums at what was then the ordinary rate of 10 per cent. After all this, it was still found to be necessary to leave many of the bills unpaid. At the beginning of 1606, the whole debt amounted to £735,000,† and it was calculated that the annual deficit would reach £51,000, without allowing for those extraordinary expenses to which, under James's management, it

1606.

* When Parliament met in 1606,	£
The ordinary issues were ... ..	366,790
The ordinary receipts ... ..	314,959
Excess of issues ... ..	£51,831

(*S. P. Dom.* xix. 46.) Besides this, it was found that the actual receipts had fallen short of the estimates by £6,000. The extraordinary expenditure appears from the *Pell Declarations* to have been about £100,000.

† By Dorset's declaration,	£
The King's debt at his accession was ... ..	400,000
His extraordinary expenses during three years ... ..	104,000
The new debt ... ..	231,280

(*S. P. Dom.* xix. 45.)

£735,280

was impossible to place any limit, but which seldom fell short of £100,000 a year.

Unless, therefore, the Commons could be persuaded to come forward with liberal supplies, a sudden check would be put to the course which James was pursuing. His extravagance had shown itself in many ways. About £40,000 was annually given away, either in presents or in annuities paid to men who had done little or nothing to merit the favour which they received.\* Those into whose pockets the golden stream was flowing were not the statesmen who were consulted by the King on every occasion of importance; they were men who, whether of Scottish or of English birth, had raised themselves by their ability to tickle their patron's ear with idle jests, and to minister to his amusements in his leisure hours. Under such auspices the expenses of the Court swelled every year. The pension list grew longer, the furniture gayer, the attendants more numerous, the jewels more costly, and the robes more gorgeous than those with which Elizabeth had been content. In the arrangements of his household, James seemed bent upon gratifying every whim at the expense of his impoverished Exchequer. In political life, indeed, the Ramsays and the Herberts were as yet kept in the background. As long as Salisbury lived, such as they were, were not allowed to sway the destinies of the state; but their very presence at Court must have been highly obnoxious to the grave and sober men who formed so large a part of the House of Commons. There was too close a connection between their follies and the unyielding policy of the King. Men had long ceased to expect that James would guide England in the path in which she was desirous to walk. An unyielding, purposeless conservatism was all that he had to offer. His only policy was a policy of stagnation, and already the weeds were gathering fast, and obstructing any impulse which might momentarily turn his mind to better things. The life was departing by which the Government had been animated in the days of Elizabeth, and it would not be

CH. V.

1806.

Causes of  
the in-  
crease.

\* See *Parliamentary Debates*, in 1610. Camd. Soc. Introduction, p. xiii.

CH. V.

1603.

Supply  
proposed  
in the  
Commons.

long before vice and crime would enter where folly and profusion had already found their way.

On the 10th of February, whilst the feelings of the House of Commons were still under the influence of their great deliverance, the subject of a supply was brought forward. The greater number of speakers proposed a grant of two subsidies and four fifteenths, which would amount to about £250,000.\* The whole matter was, however, referred to a Committee, which was to meet on the following afternoon.

Of this Committee Bacon was a member. He was now looking forward again to promotion. In October, 1604, the Solicitor-Generalship had been again vacant, but he had once more been passed over in favour of Sir John Doderidge.† He can hardly have failed to gain the King's favour, a few weeks later, by the zeal which he showed in the consultations of the Commissioners on the Union; and it had become evident, by the course taken by the Commons in the last session, that it was more than ever necessary to secure the services of a man of ability and talent, who might take the lead in the debates. Such a part was exactly to his mind. Anxious as he was for reform, he wished to see it proceed from the Crown, and he had not given up hope that the mistakes of James were a mere passing cloud, which would

\* A subsidy was an income-tax of 4s. in the pound upon the annual value of land worth 20s. a-year, and a property-tax of 2s. 8d. in the pound upon the actual value of all personal property worth £3 and upwards. Personal property was, therefore, much more heavily burdened than real property. The tenths and fifteenths were levied upon the counties and boroughs at a fixed rate, settled by a valuation made in the reign of Edward III. Each county or borough was responsible for a certain sum, which was levied by persons appointed by its representatives in the House of Commons. The subsidies were levied by Commissioners appointed by the Chancellor from amongst the inhabitants of the county or borough. Apparently, from the laxity of these Commissioners, the receipts had been steadily decreasing. Thus—

One subsidy of the laity, with two 10ths and 15ths,	£
produced in 13 Eliz. ... ..	175,690
Ditto in 35 Eliz. ... ..	152,290
Ditto in 43 Eliz. ... ..	134,470
Ditto in 3 Jac. ... ..	123,897

Oct. 28, 1608.—*S. P. Dom.* xxxvii. 38.

† Chiefly through Coke's objections to him, if the letter in *Montagu*, xii. 102, is subsequent to Doderidge's promotion. On the other hand, if the letter was written earlier, Bacon may have himself refused the promotion, unless Coke was removed from the Attorneyship.



be removed as soon as he was rendered accessible to good advice. To serve the King in any capacity which would enable him to share in the councils of the State had long been the object of his ambition, and he was unwilling to throw obstacles in the way of a Government of which he hoped himself so soon to form a part.

The very afternoon of the day on which the Committee was appointed, Bacon wrote to Salisbury, enclosing the preamble\* of the Bill which he hoped to induce the Committee to accept. The next morning a message was sent down from the King, thanking the House for the unusual readiness with which they had offered to supply his wants.† A few days afterwards, however, Dorset, together with other members of the Privy Council in the Upper House, took occasion of a conference to point out to the Commons the magnitude of the King's necessities, dwelling especially, as might have been expected, upon those expenses which were least connected with his personal extravagance.‡ Consequently, when, on the 14th of March, the question was taken up by the House, a proposition was made to increase the supply to which they had already agreed. There was some opposition, and the debate was adjourned till the 18th. When the House met on that day, a message was brought from the King, begging them to come to a speedy decision one way or the other upon the proposed supply, as he was unwilling to see his necessities exposed to any further discussion. Upon this, after some debate, an additional subsidy with its accompanying fifteenths was voted, and a Committee was appointed to draw up the Bill.§ On the 25th, Bacon reported the recommendations

CH. V.  
1606.

Subsidies  
granted.

\* Bacon to Salisbury, Feb. 10, 1606. Dixon's *Personal History*, 149.

† C. J., i. 266.

‡ C. J., i. 271. There is no mention of the report of the Committee, but it must be supposed that they recommended a Bill for two subsidies and four fifteenths, as Salisbury speaks, on the 9th of March, of the grant as already made, though nothing had been done formally (Salisbury to Mar, March, 1606, *S. P. Dom.* ix. 27).

§ This affair has been placed in a very different light by Mr. Hepworth Dixon in his *Story of Lord Bacon's Life* (p. 213), from which we have been led to suppose that 'Bacon now came to the front. In the midst of a noisy sitting of the Committee, word came down from Whitehall that James would not wait—that the Bill must be passed, or the undutiful members should feel his

CH. V.

1803.

of the Committee. A debate ensued upon the length of time which was to be allowed for the payment of the six portions into which the supply granted was to be divided; and it was not without difficulty that Bacon carried his proposal that the whole grant should be levied before May, 1610, in spite of the opposition of

ire. Such words—now frequent—made the King odious and contemptible. A storm set in; the members flung back threat for threat; the Bill was lost.' Here is the passage of the message which relates to the subsidy: 'His Majesty perceiving still that his message of thanks to this House, with a gracious offer to assent to any good means that could be found out for preventing the abuse of purveyance, hath hitherto produced no other effects but the multiplicity of arguments, part growing by the different opinions of many concerning some further addition to the former grant of two subsidies, and part rising from the course you have fallen into in making yourselves so liberal collectors of all sorts of grievances: it hath pleased His Majesty to impart by me his gracious meaning once again; which being known, he little doubteth but you will find reason to conform yourselves to the same. First, he is sorry to observe the growing on of the year. . . . Next, it troubleth His Majesty that, by discourse upon the subject of his necessities, strangers abroad are become privy to those *arcana imperii* which he only wished to lay open to his loving subjects; in which consideration, because he can use no better means nor more intelligible than he hath done to make you capable of the condition of his estate, nor ever meaneth to go about to obtain anything by importunity or contestation which may be thought to concern his own interest, especially if he shall discover that you are unwilling to strain yourselves to keep him and his from failing in the honour and dignity which is due to the eminency of his degree whom God hath made your Sovereign, he hath now only resolved to require thus much of you at this trial in the duty and affection you bear him, as to proceed to some such course as he may presently know your final determination, whether he may look for any farther addition to that which is granted, wherein as His Majesty assureth you that, according to the old proverb, *qui cito dat bis dat*, that in the true thankfulness of His Majesty's heart he will prefer the willing and ready minds of the givers before the quality of the gift; so as he knoweth you are so wise as to conceive that, if the noise of more doubts, debates, and contradictions should now continue but a few days longer, not only the value of that addition which is desired would be lessened by the form of giving, but much of the estimation would be impaired of those subsidies, whereof by the honest gratuities you have already put His Majesty into possession. In which consideration His Majesty hath willed me to tell you that he never looketh to lack a voice to this reasonable motion, that the first work may now be only to draw this matter to some end by a grave and orderly consultation, which he only recommendeth' (March 18, 1606, *S. P. Dom.* xix. 57). I have only to add, that the ensuing debate was not in Committee; that, so far from the Bill being lost, the Commons' Journals state that it was carried: 'Quest. Whether one subsidy and two fifteens more.—Resolved, the Committee'—i. e. the Committee to draw up the Bill—'to meet on Thursday' (*C. J.*, March 18, i. 286), and that the King on the following day sent down another message, thanking the House for what they had done (March 19, *S. P. Dom.* xix. 58. *C. J.*, i. 287). After this it is unnecessary to add that the brilliant picture which follows, of the triumph of Bacon over an unwilling House, is founded upon a misconception.

Sandys and others, who wished to spread the payment over a longer period. His arguments were probably rendered more palatable by a circumstance which had occurred a few days previously. On the 22nd, a rumour reached London that the King had been murdered, and when the report proved to be false, the members must have felt that, great as their dislike was to many of the actions of James, they could hardly afford to lose him. Prince Henry was still a child, and the prospect of a minority at such a time was not to be regarded with complacency. Not only did the Commons agree to the proposition of the Government, but, although the attempts which had been made to amend the law of purveyance, and to take further steps in ecclesiastical reform, had proved fruitless, they did not insist upon obtaining an immediate answer to the petition of grievances which had been drawn up. They contented themselves with leaving it to be answered at the commencement of the next Session. On the 27th of May Parliament was prorogued, and the King and the Lower House parted in far better humour with one another than had been the case at the close of the former Session.

CH. V.  
1603.

The petition of grievances.

A few days after the prorogation, the death of Sir Francis Gawdy, the Chief Justice of the Common Pleas, threw into the hands of the Crown one of the most important of the legal appointments in its gift. The place was given to Coke, whose services during the trials of the Gunpowder conspirators thus obtained their reward. Coke's removal opened a prospect of promotion to Bacon. He had refused to accept the Solicitorship as long as Coke continued to be Attorney-General, as it was impossible that two men who disliked one another so thoroughly should ever work together.\* At the time when he was engaged in supporting the Government in Parliament during the Session which was just concluded,

Coke's promotion.

Bacon fails of becoming Solicitor.

\* There is no date to this letter (*Bacon's Works*, Ed. Montagu, xii. 102), but may it not have been written at the time when the Solicitor-Generalship was open upon Fleming's promotion in Oct. 1604? If Bacon declined the office at that time, it would explain why there are no letters of his remonstrating against being passed by. He certainly was not out of favour at the time, as on the 25th of August he had received a pension of £60, in addition to a confirmation of his rank as King's Counsel.

CH. V.

1803.

he had received promises of promotion both from Salisbury and the King himself. Ellesmere, who always looked with favour upon Bacon, suggested that whenever the Attorney should go up to the Bench, Doderidge might rise to the higher post of King's Serjeant, when Bacon might succeed him as Solicitor, leaving the Attorney's place, to which Bacon made no claim, at the disposal of the Government.\* Accordingly, when the vacancy occurred, the Attorneyship was conferred on Sir Henry Hobart, a sound lawyer and an upright man, who may perhaps have been recommended to Salisbury by his modest and unassuming character. We know that Bacon failed to receive the appointment which he had been led to expect, but the reasons of his failure are left to conjecture. His request, indeed, that Doderidge might leave a vacancy for him by being himself moved into the Attorney's office was rejected;† but it is not improbable that the intention of the King was to carry out Ellesmere's plan. If we suppose that after Hobart's appointment had been made, Doderidge, on being informed of the part he was expected to take, refused to give his consent, and that the scheme was wrecked upon his unwillingness to conform to the wishes of the Government, rather than by any malevolence on the part of Salisbury, we shall perhaps approximate as closely to the truth as it is possible to do in the present state of our information.‡ But whatever may have been the

\* It is generally supposed that this scheme was an after-thought, to make up for Bacon's disappointment in consequence of Hobart's promotion. That the facts are as I have stated them is plain from Bacon's letter to the King (*Bacon's Works*, Ed. Montagu, xii. 94; Campbell, *Lives of the Chancellors* (ed. 1845), ii. 327). Lord Campbell has printed the letters on this episode in Bacon's life together, and a reference to him will save the trouble of hunting for them in Montagu's miserably-arranged collection.

† Bacon to Salisbury, Campbell, ii. 324.

‡ It seems certain that Doderidge had expressed no unwillingness up to the time of Gawdy's death, otherwise Bacon would surely have mentioned such a fact in writing to Salisbury, as an additional argument for making a vacancy by promoting Doderidge to the Attorneyship. It is not impossible that Doderidge may from the beginning have expressed his readiness to become King's Serjeant, but that either he or the Government were unwilling to give the place to him till one of the existing holders was removed. This could not take place at Gawdy's death; but in the following year Croke,

cause, Bacon failed at this time in obtaining the object CH. V.  
 which he had so much at heart, and was left without 1606.  
 office for another year.

who was King's Serjeant, was promoted to the Bench on the same day that Doderidge was appointed to succeed him. This is, of course, merely conjecture, but it perhaps deserves consideration.

## CHAPTER VI.

## THE POST-NATI.

CH. VI. FORTUNATELY for England, the financial difficulties  
 1606. which had made James a beggar to the House of  
 Growth of Commons were not felt by the nation at large. If the  
 commerce. Exchequer was at a low ebb, it was the Crown alone  
 which suffered. Capital was being rapidly accumulated,  
 and commerce was becoming more active every day. It  
 is not to be wondered at, therefore, that mercantile  
 affairs should attract the attention both of those who  
 were in earnest in desiring to put on a better footing the  
 commercial enterprise of the country, and of those who  
 merely wished to draw as large a portion as possible of  
 the profits into their own coffers.

Freedom  
 of trade.

In 1604, the Lower House had declared strongly  
 in favour of throwing open the commerce of the  
 country to all Englishmen who were willing to take  
 part in it. This change had been resisted by the  
 Government on the ground that it would be attended  
 by great practical inconveniences. In fact, the English  
 navy was not as yet sufficiently powerful to protect a  
 trade which was already spreading over a large part of  
 the surface of the globe. Still, however, the Govern-  
 ment shared in the feelings of the country towards the  
 great monopolist companies, and they were anxious to  
 find a practical remedy for the evils complained of.  
 The idea seems first to have occurred to Chief Justice  
 Popham that it would be well to retain the companies,  
 but at the same time to put an end to their exclusive

Popham  
 proposes  
 to throw  
 the com-  
 panies  
 open.

character. He proposed to Salisbury\* that they should be thrown open to all who were ready to contribute a certain sum. Salisbury eagerly adopted the plan; and in the course of 1605, a Spanish Company† and a Levant Company‡ were formed on this footing. It was only by the existence of the charters of the other companies that the Government were prevented from carrying out the same principle more generally.

CH. VI.  
1606.

The  
Spanish  
and  
Levant  
companies.

The creation of the Spanish Company was especially distasteful to the House of Commons. The coasts of Spain lay at no great distance from England, and there were many owners of small craft in the Channel ports who had hoped that, now peace was reestablished, they would be able to make a livelihood by running their vessels to Lisbon or Corunna, although it would be out of their power to pay the subscription required by the new company. The Commons therefore, giving up their scheme for the general opening of trade, directed all their energies, in the Session of 1606, to the overthrow of the Spanish Company. They were the more anxious to effect their object as a petition had been already presented to the King by the members of that company, asking that the trade with France, which had hitherto been completely free, might be put into their hands. A Bill was accordingly brought in, declaring that all subjects of His Majesty should have full liberty of trade with France, Spain, and Portugal, in spite of any charters which had been or might at any future time be granted.§ Salisbury saw that the feeling of the Commons was too strong to be resisted, and the Bill passed through both Houses without opposition.

Opening  
of the  
Spanish  
trade.

To the formation of the Levant Company no similar objection was made. The countries with which it was to trade were too distant to expose the subscribers to the jealousy of the smaller shipowners. But a question of no small importance had arisen between the members

The  
Levant  
Company.

\* Salisbury to Popham, Sept. 8, 1605, *S. P. Dom.* xv. 54.

† Charter of the Spanish Company, May 31, 1605, *S. P. Dom.* xiv. 21.

‡ Letters Patent to the Levant Company, Add. MS. 20,031.

§ Memoranda, April 11, 1606, *S. P. Dom.* xx. 25.

CH. VI.

1606.

Velutelli's  
monopoly.

of the company and the Crown, in which the interference of Parliament was solicited.

In 1575 a patent had been granted to Acerbo Velutelli, a native of Lucca, giving him the sole right of importing into England currants and oil from the Venetian territories. On the strength of this he exacted from all English and foreign merchants fines for licenses to carry on the trade in those articles. The Venetians, dissatisfied that their merchants should be compelled to pay Velutelli for permission to carry their own productions to England, set a duty of 5*s.* 6*d.* per cwt. on currants exported in other than Venetian bottoms, with corresponding duties on oil and wine. At the request of the English merchants, a similar impost was laid by Elizabeth on these products when landed in England from foreign vessels.\*

The  
Venetian  
Company.

Not long afterwards, Velutelli's patent was cancelled, and a fresh one was granted to a few English merchants, who were formed into a company, having the monopoly of the Venetian trade. The duty on currants imported in foreign vessels was thus changed into a total prohibition. This patent expired in 1591, and an imposition was then laid upon the articles in question, whether imported in English or in foreign ships. After due deliberation, however, this plan was abandoned, and a new Company was formed, in which the merchants trading with Venice were incorporated with an equally small company trading with Turkey, under the title of the 'Levant Company.'† In the course of the year 1600, complaints were made that this company had exceeded its powers. They, and such persons as they might license, were entitled to carry on the trade, to the exclusion of all others. On the strength of this they allowed, as Velutelli had done before them, merchants who were not members of their body to import currants, on condition of paying them 5*s.* 6*d.* per cwt. It was represented to the Queen that she had never intended that a few Lon-

The first  
Levant  
Company.

\* Statement by the Levant Company, Feb. 1604. Observations on two special grievances, Nov. 1604, *S. P. Dom.* vi. 60, and x. 27.

† The patent is printed in Hakluyt (ed. 1599), ii. 295. See also *Cott. MS. Tit. F. iv. fol. 232*; and Fleming's judgment, *State Trials*, ii. 391.



doners should virtually levy customs for their own profit, and that to allow such proceedings to pass unnoticed would derogate from the honour of her crown. The question thus mooted was never decided. The Government, taking advantage of a technical flaw in the company's charter, pronounced it to have been null and void from the beginning.

CH. VI.  
1600.

As soon as this was known, the Queen was pressed by many merchants who were not members of the company to throw the trade open. They declared that they were not only willing to support the ambassador at Constantinople, and the consuls at the other ports of the Levant, at an annual cost of £6,000,\* but that they were ready, in addition to these expenses, to pay to the Queen the duty of 5s. 6d. per cwt. which had been exacted from them by the monopolists.

Its charter resumed.

The Queen, however, preferred bargaining with the old company, and granted them a new charter, by which their monopoly was confirmed, on condition of a yearly payment of £4,000.

A new charter granted,

During the few remaining years of Elizabeth's reign the Levant trade was unprosperous. The Venetians put new restrictions upon the export of currants, in order to favour their own navigation. The rise of the direct trade with India was already beginning to exercise a deleterious influence upon the commerce of Turkey. Consequently when, soon after the accession of James, the proclamation against monopolies was issued, the company appeared at the Council-table and surrendered their charter, confessing it to be a monopoly. In return, they were excused the payment of arrears amounting to the sum of £2,000.

which is surrendered as a monopoly. 1603.

The forfeiture of the charter caused a deficiency in the King's revenue which he could not well afford. It was only natural that, the trade being now open, the Council should revert to the imposition which had been before levied, either by the Crown or by the company itself. They could hardly expect much opposition from the

Imposition upon currants

\* The sum is given in the Petition of the Levant Company, Nov. 1604, *S. P. Dom.* x. 23.

**CH. VI.** merchants. Of those who had not been members of the  
**1603.** company, many had, in 1600, expressed their readiness to pay the duty ; and those who had been members, had for many years exacted the payment for their own profit. That the Crown had no need to obtain the consent of Parliament, there could be little doubt, according to the notions which at that time prevailed in official quarters. The Exchequer had long been in the habit of receiving money paid in on account of similar impositions, and nearly half a century had passed since the slightest question had been raised of their legality. But before proceeding further, the Government determined to take a legal opinion. That opinion being favourable, they directed the Treasurer to reimpose the former duties.\*

**Arrears  
forgiven.**

**1604.**

There was no intention, on the part of the Government, of pressing hardly upon the merchants. It was customary not to pay duties of this kind immediately upon the landing of the goods, but to give bonds that the money would be forthcoming after a certain interval of time. Nearly a year passed, and the payments due upon the bonds which had been given had not been made. It was in vain that the Council pressed the Treasurer to call for the money.† It was met by objections, and declarations of inability to pay. Upon this, in November, 1604, the whole subject was taken once more into consideration,‡ and a discharge was granted to the merchants of the whole of their arrears, which were estimated at about £6,000. This was done upon the distinct understanding that, in future, the imposition would be paid.

**1605.**

**Re-establishment  
of the  
Levant  
Company  
on a new  
footing.**

In 1605 the state of the Levant trade was again under the notice of the Government. Though the monopoly had ceased, the old company still continued to trade as a private association. Under its altered circumstances, however, its members were no longer able to support the ambassador and the consuls. Debts had been incurred in the East, and fears were entertained lest the Turkish authorities should seize the buildings and other

\* Council to Dorset, Oct. 31, 1603, *S. P. Dom.* iv. 46.

† Docquet of letter, July 23, 1604, *S. P. Docq.*

‡ Docquet of discharge, Nov. 10, 1604, *S. P. Docq.*

property of the association.\* The merchants requested Salisbury to obtain for them the reestablishment of the company on a new footing. Once more he took measures to ascertain whether, in acting in accordance with their wishes, he should be keeping within the limits of the law. The charter of the Spanish Company had been granted a few weeks previously, and petitions had been already presented, in which it was declared that all such charters were illegal.† He accordingly wrote to Popham for his opinion. Having received in reply an assurance that no legal objection stood in his way, he procured from the King a patent by which a new open company was constituted, in which all who paid the subscription might take part, and which was to be possessed of the exclusive right of trading to the Levant. In order that the new association might start fairly, the King directed that the sum of £5,322, being the amount which he was to receive in one year from the farmers to whom the imposition on currants had been lately let, should be handed over to the company as a free gift. With this they would be able to defray the expenses of the present which it was customary to offer to the Sultan at certain intervals of time.‡

The Council probably hoped that they had now heard the last of the Levant company. In the course of two years and a half, they had either given or remitted to the merchants no less than £13,322. They were, however, soon destined to be undeceived. Not long after the new arrangement had been made, John Bate, one of the members of the company, asked his servant to drive away from the water-side a cartful of currants before it had been examined by the officer of the customs. Bate was immediately summoned before the Council, and

CH. VI.  
1805.

1806.  
Bate  
resists  
payment  
of the im-  
position.

\* Petition of the Levant Merchants, July 1805. R. Stapers to Salisbury, July 8, 1805, *S. P. Dom.* xv. 3 and 4.

† Salisbury to Popham, Sept. 8, 1805, *S. P. Dom.* xv. 54. 'If,' he writes, 'there might be some project only to incorporate all merchants (that are the King's subjects), without any such injurious exclusion as it was before, then all such inconveniences might be provided for, and yet no wrong done to the liberty of any other subject. For I would have it to be open to all men to trade that would into all places; neither should there be any privilege for sole bringing in of any commodity, as it was before.'

‡ Warrant, Dec. 13, 1805, *S. P. Dom.* xvii. 35.

CH. VI.  
1606.

declared that his servant had acted by his instructions, which he had given, because he believed the imposition to be illegal.\* He was committed to the Marshalsea for contempt of the King's officers. The Government, however, was anxious that the question which had been raised should be set at rest, and decided upon bringing the case formally before the Court of Exchequer.

The merchants' petition the House of Commons.

Meanwhile, the merchants appealed to the House of Commons. The Commons at once inserted in the Petition of Grievances which they presented at the end of the session, a request that the impositions might cease to be levied, as no such duty could be legally demanded without the consent of Parliament. A similar statement was made with respect to a high duty of 6s. 8d. per lb.† which had been laid on tobacco, on which James sought to express his feelings with regard to what was, in his opinion, a most pernicious and deleterious drug.

Bate's case in the Court of Exchequer

A few days before Parliament met, in November, to receive an answer to its petition, the case was brought to an issue in the Court of Exchequer, and James was able to declare that he had received the approval of the judges. By an unanimous decision of the four Barons of the Exchequer, Bate was called upon to pay the duty on the currants which had been landed in his name; and the doctrine, that the King was entitled by his sole prerogative to levy impositions upon the imports and exports, was declared to be in accordance with the law of the land. The pleadings in the case have not been handed down to us, and of the judgments only two, those of Clarke and Fleming, have been preserved. Their decision has been received by posterity with universal disfavour. Lawyers and statesmen have been unanimous in condemning it. Those who have tried it by the technical rules which prevail in the courts have pronounced it to have violated those rules openly. Those who have examined it from the point of view of political and constitutional expediency, have unhesitat-

\* Memoranda, April 11, 1606, *S. P. Dom.* xx. 25.

† Rymer, xvi. 601.

ingly declared that it is based on principles which would lead to the extinction of English liberty. In 1610 the decision of the court was subjected to a long and sifting examination, and the superiority in argument was decidedly on the side of those who took the popular view of the question.

CH. VI.

1608.

Under these circumstances, historians have generally leapt to the conclusion that such a judgment could only have been obtained by means of intimidation or corruption. Yet of any attempt made by the Government to influence the judges, no evidence has ever been produced. On the other hand, it is impossible to read Salisbury's letters on the subject of the imposition,\* and on other similar questions, without seeing that he was most anxious on all occasions to keep within the bounds of the law. Nor is there any reason to suppose that the judges were influenced by the fear of dismissal. As yet, though in theory they held their offices during the good pleasure of the Sovereign, they were able to regard their offices as permanently their own. Since the accession of Elizabeth not a single case had occurred of a judge being dismissed for political reasons.† Nor were the opinions which they put forth on this occasion considered at the time to be unwarranted. Hakewell, who was present at the trial, and who afterwards delivered in the House of Commons one of the ablest speeches on the popular side, confessed that at the time when he was listening to the judgments he had been perfectly satisfied with the arguments which he heard.‡ Coke, than whom no one argued in later years more strongly against the supposed prerogative of the Crown, declared that, at all events in this particular case, the Government had the law on its side.§ Finally, the House of Commons itself, upon receiving information from the King that

The judges not intimidated or corrupted.

\* See especially Salisbury to Popham, Sept. 8, 1605, *S. P. Dom.* xiii. 54.

† There is a doubt whether Chief Baron Manwood was actually deposed in 1572. If he was, it was upon complaint of gross misconduct in his office. *Foss. Judges*, v. 321.

‡ *State Trials*, ii. 404.

§ *Rep.* xii. 33. Compare Coke's opinion on a similar question, *S. P. Irel.* 1604.

CH. VI. judgment had been given in his favour, acquiesced in  
 1608. the decision, and, for a time at least, thought no more about the matter.

Causes by  
 which they  
 were in-  
 fluenced.

A little consideration will make it less difficult to understand the feelings by which the judges were in reality influenced. They had been accustomed during the greater part of their lives to see the collection of similar impositions going on as a matter of course,\* and they would naturally go to their law books, impressed with the idea that Bate was attempting to establish a novel claim against the Crown. It must be remembered that the men who were selected for the office which they filled, would invariably be such as were disposed to be friendly to the prerogative. When they were once upon the Bench, their habits of life and their position as officers of the Crown would be certain to lead them imperceptibly to share the views of the Government on questions of this kind. As soon as they looked to precedents, they found that all existing impositions had sprung up in the last two reigns. Up to the accession of Mary, none had been levied since the time of Richard II. Important as this intermission would appear to a statesman, it was not likely to be regarded by a lawyer as being of any great consequence. The only question for him would be, whether the prerogative in dispute had been detached from the Crown by any means which the law was bound to recognise. That it had been so detached by Act of Parliament there can be no reasonable doubt whatever. But it must be acknowledged that it is difficult to lay our hands on more than one or two statutes the language of which is so explicit as not to admit of being explained away, and that even these are open to the objections of men who had come to a foregone conclusion before they read them. Our ancestors in the thirteenth and fourteenth centuries were not careful to lay down general principles, and usually contented themselves with stipulations that no duties should be laid upon the wools, woolfells, and leather,

\* On the other hand, the judges before whom the question was brought at the beginning of Elizabeth's reign had not been accustomed to see impositions collected.

which were at that time the favourite objects of the King's rapacity.

CH. VI.

1808.

Argu-  
ments  
from his-  
torical pro-  
cedents,

If indeed the judges had looked upon the history of those times as we are able to do, they would have perceived at a glance that such objections were utterly unworthy of attention. They would have seen the English constitution marching steadily onwards under the influence of a great principle, and they would have interpreted every verbal difficulty in accordance with the law by which the progress of the nation was governed. But these things were hidden from them. They had been brought up under a different system from that under which England had grown in vigour in the days of the Plantagenets, and they required strict and unimpeachable evidence that the King did not still retain all that had once been his. Even the fact that the early Kings had been accustomed continually to violate the law, and had so made it necessary that new statutes should be from time to time enacted in order to keep them under restraint, was dealt with by them as if it had been evidence in favour of the Crown. Instead of regarding such acts as struggles against the power of the law, they fancied that they perceived that the King had been aware that the law was on his side, but that he had allowed himself to be bought off by yielding some of his rights in return for a considerable subsidy.\* They were encouraged in this mistake by an idea that there had been in those times some definite system of constitutional law on this point acknowledged by both parties, so that they were led to look upon the bargains into which the Commons so frequently entered as if they had contained an acknowledgment of the rights claimed by the Crown.

Nor were the arguments which Fleming based upon political reasoning less characteristic of those opinions which were so soon to become obsolete, excepting in the immediate neighbourhood of the Sovereign. He held, that in addition to the ordinary power, the King was

and from  
constitu-  
tional  
theory.

\* Clarke's argument that Edward III., in giving his assent to one of these statutes, did not bind his successors, is outrageous. There is nothing of this kind in Fleming's judgment.

CH. VI.

1606.

possessed of an absolute authority, which he might exercise whenever he saw fit for the general safety of the Commonwealth. He was especially entitled to use his discretion on all questions arising with foreign states: he might conclude treaties and declare war; he might regulate commerce and watch over the admission of foreign coin into the realm. It would, however, be impossible for him to provide for the regulation of commerce, unless the power of laying impositions were conceded to him. It was true that he could not lay any tax upon his subjects, or upon any commodity within the realm without the consent of Parliament, but this did not affect his right to lay duties upon imported goods, which were to be considered as being the property of foreigners until they were actually landed in England. It might safely be left to the King's wisdom to judge whether his subjects would be injured by the duties which he imposed, just as it was left to his wisdom to determine what felons might be safely pardoned.

The Commons admit the reasoning.

Such as it was, this reasoning was sufficiently in accordance with the ideas then prevalent to impose upon the House of Commons. When Parliament met once more, on the 18th of November, the King's answer to their petition of grievances was read, and not a single voice was raised against his refusal to remove the imposition on currants, which had been so recently supported by the Court of Exchequer. A similar answer was returned with respect to the heavy imposition on tobacco.

Purveyance.

Another article in the petition referred to the vexed question of purveyance. It had been debated at great length in the last Session, but not only had the Bill which was sent up from the Commons as the result of the debate been lost in the Upper House, but the judges who were consulted on the subject had declared that the King's right was of such a nature that Parliament was unable to touch it, as 'the prerogative was not subject to law, but was transcendent above the reach of Parliament.'\* The Lords, however, had promised that

\* Carleton to Chamberlain, April 17, 1606, *S. P. Dom.* xx. 36. These words would be sufficient to show, if they had occurred in an undated letter, that Coke had not yet received his appointment.



the King would take the matter in hand, and would attempt to provide a remedy. Accordingly, when the House met again, they were referred to a proclamation which had been issued before the conclusion of the preceding Session.\* If it did not remove all the evils which had been complained of, it seems to have proved effective as a remedy for the crying injustice which had roused such indignation in 1604, as, when renewed attempts were made at a future time to procure a total abolition of the system, no invectives were heard against the misconduct of the officials.

Another grievance of which the Commons complained arose from the interference of the Crown with the sale of the produce of the tin mines in Cornwall and Devon. Towards the end of Elizabeth's reign,† complaints reached London of the miserable condition of the miners. These men had been accustomed to work on their own account, but, from want of capital, they had been unable to carry on their operations to advantage. Under these circumstances, some of the members of the London Pewterers' Company stepped in to furnish the necessary funds. Having thus got the tinnerns into their power, they succeeded in securing the greater part of the profits to their own use. The miners began to complain that the interest charged was so exorbitant, that hardly anything was left upon which to support themselves and their families. As soon as information of their unfortunate condition reached the Queen, she took what seemed to her to be the best measures for remedying the evil; she granted to certain persons the preemption of all the tin which was produced in the two counties, requiring them to pay to the tinnerns what was considered to be a reasonable price. For this privilege, which was granted in 1601, the patentees paid an annual rent of £2,000 to the Crown. Soon after the accession of James, the patent was taken from them, having been condemned as a monopoly at

CH. VI.

1606.

Preemption of tin.

\* S. P. Proclamation Book, April 23, 1606.

† Judgment in the Star Chamber against Glover and others, Nov. 14, 1606, S. P. Dom. xxiii. 57. The particulars of the arrangement will be found in the Indenture between the Queen and Brigham and Wemmes, June 18, 1601. *Close Rolls* 43 Eliz. Par. 15. See also an earlier indenture in the same names, Feb. 27, 1601. *Close Rolls* 43 Eliz. Par. 13.

CH. VI. the suit of the Pewterers' Company.\* In a few months  
1606. the old complaints were heard once more. James determined to oppose a monopoly of wealth which was working such mischief.† He himself advanced the requisite sum for the next half year, and was able to sell the tin he had purchased at a price which was remunerative, though it was far less than that which had been asked by the Pewterers. This mode of conducting the business of the mines did not last long. Upon the ground that the tin mines of Devon and Cornwall were in some sort the property of the Crown,‡ the right of preemption was regranted to the old patentees, not on the footing of an ordinary monopoly, but as a legitimate mode of disposing of Crown property. The Commons, as soon as they heard this explanation of the case, withdrew their opposition to what had been done.§

Memorial  
on the  
Union.

As soon as the Commons had listened to the answer to these and the remainder of their grievances, they proceeded to apply themselves to discuss the proposals for the Union with Scotland which were laid before them. These proposals were contained in a memorial which had been drawn up by the Commissioners of the two nations, who had met at Westminster in the autumn of 1604. It had been intended that the Union should have been the chief subject of debate during the session which was to have commenced on the memorable 5th of November in the following year; but the enactment of the new persecuting laws against the Catholics had occupied too much time to allow the House to enter upon a question of such importance. The whole subject had therefore been postponed till the following session.

Unfortunately the salutary measure which James had so much at heart, was likely to meet with considerable

\* Allegations against the Patent, and Proceedings in Council, June 7, 1603, *S. P.* ii. 4, 5.

† Statement of the Tinnors, Feb. 1604, *S. P. Dom.* vi. 79.

‡ Edward I. had granted a charter to the Tinnors, allowing them free liberty of sale for their produce, 'unless the said King or his heirs would buy the same.' Rep. xii. 9. The same claim had been put forth by Elizabeth in the earlier of the two indentures just quoted.

§ The grievances themselves will be found in *Cott. MS. Tit. F. iv. fol. 24.* The reply in *C. J.*, i. 316.

opposition in the House of Commons, even in the modified form in which it was now submitted to it. His assumption of the title of King of Great Britain,\* in spite of the objections which had been urged in 1604, and the sums of money which, especially in the course of the summer of 1606, had been lavished upon Scottish favourites, rendered the House indisposed to consider the question with an impartial eye.

CH. VI.

1606.

English  
feeling on  
the  
subject.

Nor was the language used by the King at the opening of the Session calculated to conciliate opposition. He allowed it to be seen that he contemplated the possibility of a still closer union than that which was to be proposed in his name, and thereby raised fears lest what he was asking for was intended to be used as a means for obtaining hereafter further concessions, which would certainly be refused if they were at once laid as demands before the House.

When the memorial of the Commissioners was read, it was found to contain recommendations which were drawn up under four heads†. Two of these met with but little difference of opinion. It could hardly be doubted that it was expedient to repeal those laws by which either country had taken precautions against hostile attacks from the other, or that some arrangement ought to be made for the mutual extradition of criminals.

The  
memorial.Abolition  
of hostile  
laws.

The other two points were far more likely to give rise to opposition. One of the most essential measures by which the prosperity of the two kingdoms could be insured, was the establishment of freedom of commercial intercourse between them.

After mature deliberation, the Commissioners determined to recommend that certain productions of each country should not be allowed to be exported to the other. The English were afraid of a rise in the price of cloth, if their sheep-farmers were permitted to send their wool to be manufactured in Scotland; and the Scotch were equally alarmed at the prospect of high prices for

\* This title was afterwards dropped.

† The instrument of the Union, *C. J.*, i. 318.

CH. VI.  
1803.

meat, if their cattle could be driven across the Tweed to a more profitable market than Edinburgh or Perth could offer. With these and two or three other exceptions, the whole commerce of the two countries was to be placed on an equal footing. The Scotchman was to be allowed to sell his goods in London as freely as he could in Edinburgh; and he was to be permitted to take part in those commercial enterprises upon which so much of the prosperity of England was already founded. A similar liberty was to be granted to Englishmen in Scotland; though, for the present, at least, its value would be merely nominal.

Naturali-  
sation.

A commercial union of this description made it necessary to take into consideration the question of naturalisation. Unfortunately, it was impossible to avoid touching upon political difficulties. The best course would have been to have naturalised entirely, in each kingdom, all persons born in the other, but to have incapacitated them, at least for a certain time, from holding any high official position. There would have been less difficulty in drawing up a measure of this kind, as, of the six Scotchmen who had been sworn into the English Privy Council soon after the accession of James, all except one\* had been already naturalised by Act of Parliament, and might fairly have been regarded as exceptions from the rule which was to be proposed.

The question was, however, complicated by a distinction drawn by the legal authorities who were consulted† by the Commissioners. They declared that by the common law of England, the Post-nati (as those who were born in Scotland after the accession of James were technically called) were as little to be regarded as aliens as if they had been born in Exeter or York. They were born within the King's allegiance, and they must be regarded as his subjects as far as his dominions extended. The Ante-nati, or those born before the King's accession,

\* Sir James Elphinstone (afterwards Lord Balmerino), the Duke of Lennox, the Earl of Mar, Sir George Hume (afterwards Earl of Dumbar), and Lord Kinloss, were naturalised in the first Session of the reign.

† Opinions of the law officers of the Crown, Nov. 16, 1804, *S. P. Dom.* x. 75. In this opinion Popham, Fleming, and Coke concurred.

on the other hand, did not obtain this privilege. The Commissioners, therefore, proposed a declaratory Act pronouncing the Post-nati, in either kingdom, to be possessed of all the privileges of natives of the other. They also advised that the same rights should be communicated to the Ante-nati by statute. The question of the reservation of the high offices of State was beset with still greater difficulties. If the Commissioners had been left to themselves, they would probably have recommended that the Ante-nati should be incapacitated from holding these dignities, whilst the Post-nati should be entitled to accept them. This would, at all events, have thrown back the difficulty for at least twenty years. By that time the chief reasons for apprehending evil consequences from the measure would have ceased to exist. After twenty years of close commercial intercourse, the two peoples would have become assimilated to one another; the generation which had been growing up in Scotland since 1603 would be strangers to James, and would be still greater strangers to his successor. By that time the favourites of the Sovereign would be Englishmen. If it would be still possible for the King to swamp the House of Lords and the public offices with Scotchmen, who might be supposed to feel no especial regard for the English Constitution, it would also be possible for him to find Englishmen who would be equally ready to support him in his claims. In fact, the event proved that the danger which threatened the Constitution did not arise from the possible extension of the area from which officials could be selected, but from the want of control which Parliament was able to exercise over the officials after their selection by the King. When Charles I. wished to find a Strafford or a Laud, it was not necessary for him to go in search of them beyond the Tweed.

It is possible that if the Commissioners had stopped here, they might have seen their recommendations pass into law, in spite of the prejudices by which they were certain to be assailed in the House of Commons. But, unfortunately, in order to carry out this proposal, it was necessary to interfere with one of the prerogatives of the

CH. VI.  
1606.

CH. VI.  
1603.

Crown; and when James heard that his prerogative was to be touched, he was sure to commit one of those incredible acts of folly which were certain to prove the ruin of any measure. In this case the difficulty lay in the acknowledged right of the Crown to issue letters of denization to aliens, by which all the rights of naturalization might be conferred, excepting that of inheriting landed property in England. Although, however, a denizen might not inherit land, he was capable of holding it by grant or purchase, and of transmitting it to his descendants. He was also capable of holding all offices under the Crown. James protested, no doubt with perfect sincerity at the time, that he had no desire 'to confer any office of the Crown, any office of judicature, place, voice, or office in Parliament, of either Kingdom, upon the subjects of the other born before the decease of Elizabeth.\* Under these circumstances, a sensible man would have gladly allowed a clause to be inserted, depriving him of the power of granting such offices by letters of denization to the *Ante-nati*. Even then he would still have been able to enrich any new Scottish favourites by gifts of money, and to those who were already naturalised he might assign as much more land as he pleased. Unluckily, James was not a sensible man: he considered that he would be disgraced by such an attack upon his prerogative. The plan which he adopted had, at least, the merit of ingenuity: he required that the future Act of naturalisation should contain a distinct recognition of his right to issue letters of denization, and thus to break through any restrictions which the House might think fit to impose, though at the same time he gave a promise that he would make no use of this right for which he was so eager to obtain the acknowledgment. It is strange that he did not foresee that the House of Commons would regard such a proposal as this with indignation, and would look upon it as an attempt to delude them with specious words.

The recommendations of the Commissioners were no sooner read in the House of Commons than a perfect

\* *C. J.*, i. 323. The King to Cranborne, Nov. 24, 1604, *S. P. Dom.* x. 40. i.

storm of opposition arose amongst the English merchants against the proposal to set free the commerce of the two countries. The merchants declared that they should certainly be ruined by the competition with which they were threatened. Scotchmen would come in and out of England; they would always be in the way when they wanted to drive a bargain; but as soon as the time came round when taxes and subsidies were to be demanded, they would slip over the border, leaving the burden upon the shoulders of their English rivals. There were quite enough Englishmen engaged in the trading companies, and it was most undesirable that Scotchmen should rob them of their livelihood. To these and similar complaints the Scottish merchants had no difficulty in replying. They received the support of Salisbury, who, if he did not regard the Union with any great enthusiasm, had, at all events, too much sense to be led away by the fallacies by which it was assailed.\*

The feeling of the merchants found expression in the House of Commons. That House agreed, as a matter of course, to abolish the hostile laws; but though they were ready enough to protest against the monopoly of the trading companies, they looked with prejudiced eyes upon the principle of commercial freedom when it seemed to tell against themselves. On the 17th of December, a scene occurred at a conference with the Lords which augured ill for the success of the measure. The staid Lord Chancellor scolded the merchants for the petition which they had drawn up against the Union. Fuller, in his rash, headlong way, said that the Scotch were pedlars rather than merchants. For this speech he was taken to task by the Lords, who told the Commons that, if they did not yield with a good grace, the King would take the matter in hand, and would carry out the Union by his own authority. Under these circumstances the House gave way, so far as to accept certain starting points which might serve for the heads of a future Bill, though it refused to give to them its formal adherence.†

\* Objections of the Merchants of London, with Answers by Salisbury and the Scottish Merchants, *S. P. Dom.* xxiv. 3, 4, 5.

† Report in *C. J.*, i. 332. Carleton to Chamberlain, Dec. 18, 1606, *S. P. Dom.* xxiv. 23.

CH. VI.

1606.

Debates on the repeal of hostile laws and commercial intercourse.

## CH. VI.

1807.

Sir Christopher Pigott's speech.

Upon this Parliament was adjourned till the 10th of February.\*

A few days after the reassembling of the House, Sir Christopher Pigott, who had been chosen to succeed to the vacancy in the representation of Buckinghamshire caused by the resignation of Sir Francis Goodwin, poured forth a torrent of abuse against the whole

\* Mr. Hepworth Dixon has, apparently without seeing what was implied by his words, brought a charge against Bacon, which, happily, appears to have no foundation in the facts of the case. 'Bacon,' he says, 'could compel the Government to recollect his worth. When Parliament met in November, he stood aside. The Government brought in a Bill of Union, the King had chosen his attorney, let the new attorney fight the King's battle. Bacon had only to hold his tongue and make his terms. Alarmed lest the Bill of Union should be rejected by an overwhelming vote, Cecil suddenly adjourned the House. He must get strength,' &c. (*Story of Bacon's Life*, 219-221). In other words, Bacon, who felt deeply the benefits which would arise to both kingdoms from the Union, refused to open his mouth in defence of it, unless he were bribed with the Solicitor-Generalship. Has Lord Campbell ever said anything of Bacon much worse than this?

The mystery is solved as soon as we know what a simple inspection of the journals will tell us, that there was no Union Bill at all before the House. There was a committee appointed on the 29th of November, for reviewing the memorial and for conferring with the Lords on the subject. Of this committee Bacon was a member. Of course I cannot prove that Bacon did not sit silent, but it is not very likely. He might have spoken twenty times a-day without any report coming down to us, as it was not the custom to insert the proceedings of a committee in the journals, excepting so far as they were reported to the House. We know, indeed, that he spoke in the House on the 4th of December on the question of escuage, which was incidentally connected with the Union, and that when on the 13th Lawrence Hyde reported that the committee were prepared to proceed to a conference, Bacon was chosen as one of those who were to conduct the argument; upon which, 'Sir F. Bacon and Sir H. Montagu labour to excuse themselves, but were, notwithstanding, ordered to stand.' The most probable interpretation of this is that the two were unwilling to appear as the mouthpieces of arguments which they held to be untenable; and that the House, as sometimes happened, rather enjoyed the sight of seeing men who held unpopular opinions, in such a predicament. So, two days after, it being enjoined upon Hobart to argue the question of escuage, he begged that 'direction' might be 'given unto him by the House in writing,' which was granted.

The statement that Bacon received a promise of the Solicitorship during the adjournment is founded, I suppose, on the following quotation from Forster's letter to Matthew of the 16th of Feb.:—'Sir F. Bacon doth often and kindly remember you; he is promised to be Solicitor when the other is removed.' This, however, proves nothing as to the time when the promise was made. I once saw a contemporary letter stating that Bacon had been in communication with the Government, engaging to defend the Union in the House. Unluckily, I did not take a note of it at the time, and have lost all trace of it. My strong impression is, however, that the communication referred to took place before the opening of the Session in November.



Scottish nation. He said that they were beggars, rebels, and traitors. There had not been a single King of Scotland who had not been murdered by his subjects. It was as reasonable to unite Scotland and England as it would be to place a prisoner at the bar upon an equal footing with a judge upon the bench.\* No expression of displeasure was heard, and though this silence is attributed in the journals to the astonishment of his hearers, there can be little doubt that they secretly sympathised with the speaker. Their temper cannot have been improved by the knowledge that the King had determined to make use of £44,000 out of the subsidies which they had so recently granted, in paying the debts of three of his favourites. The fact that two of these, Lord Hay and Lord Haddington, were Scotchmen, must have increased the disgust with which the prodigality of the King was regarded in the House of Commons.†

CH. VI.  
1807.

The next day James heard what had passed. He immediately sent for Salisbury, and after rating him for not giving him earlier information, and for having allowed Pigott to go so long unpunished, he summoned the Council, and commanded them to take immediate steps for bringing the delinquent to justice.

The Commons, on hearing what had taken place in the Council, determined to deal with the matter themselves. They excused themselves for taking no steps at the time on the plea that it was not well to answer a fool according to his folly. After some debate, they resolved that Pigott, being a member of the House, was not liable to be called in question elsewhere. They then ordered that he should be expelled the House, and committed to the Tower. In less than a fortnight, he was released upon the plea of ill-health.

Meanwhile, the House had commenced the discussion of the important question of naturalisation. On the 14th of February, the debate was opened by Fuller. He compared England to a rich pasture, which was threatened with an irruption of a herd of famished cattle.

Debates on  
naturalisation.  
Fuller's  
speech.

\* C. J., i. 333. Boderie to Puisieux, <sup>Feb. 19, 1807,</sup> <sub>March 1,</sub> *Ambassades*, ii. 87.

† Chamberlain to Carleton, Feb. 6, 1807, *S. P. Dom.* xxvi. 45.

CH. VI.  
1607.

He proceeded to draw a most desponding picture of the state of the country. There was not sufficient preferment for the numbers of scholars who crowded to the Universities. The inhabitants of London were already far too numerous. The existing trade did not suffice for the support of the merchants who attempted to live by it. If this was a true account of the evils under which the country was labouring, how could room be found for the impending invasion from the North? He then asked, in language which never failed in meeting with a response in the House of Commons, whether this doctrine of the naturalisation of the rising generation of Scots by the mere fact of their being born under the dominion of the King were really according to law. This theory made matters of the greatest importance depend not upon the law, but upon the person of the Sovereign. The consequences of such a doctrine would be fatal. If Philip and Mary had left a son, that son would have inherited the dominions of both his parents, and would have naturalised the Spaniards and the Sicilians in England, without any reference to Parliament. What might have happened fifty years before, might always happen at any moment under similar circumstances.\*

Bacon  
replies.

The debate was resumed on the 17th. Towards the close of the sitting, Bacon rose to answer the objections which had been made. He was, perhaps, the only man in England besides the King who was really enthusiastic in support of the Union. He had meditated on it long and deeply. He had occupied a prominent position in the debates upon the subject in 1604. He had written more than one paper† in which he laid his views before the King. He had taken part as one of the Commissioners by whom the scheme which was now before the House had been produced. To the part which he then took, he always looked back with satisfaction. Only once in the *Essays* which form one of his titles to fame, did he recur to events in which he had himself been engaged, and that

\* *C. J.*, i. 334.

† 'A Brief Discourse of the happy Union,' &c. 'Certain Articles or Considerations touching the Union,' *Works* (ed. Montagu), iv. 1, 16.

single reference was to the Commission of the Union.\* CH. VI.  
 He would himself, perhaps, have been willing to go even 1607.  
 further than his fellow-commissioners had thought proper to go. Like James, he looked forward hopefully to the day when one Parliament should meet on behalf of both countries, and when one law should govern the two nations; and he hoped that that law might be made consonant with the truest dictates of justice. He knew, indeed, that there was little prospect of such a result in his own day, but he was desirous that a beginning at least should be made.

These views he still held, but he had learnt that they were far beyond anything which he could expect to accomplish. He contented himself,† in reply to Fuller, with advocating the measure before the House. He adjured his hearers to raise their minds above all private considerations and petty prejudices, and to look upon the proposed change with the eyes of statesmen. It had been said that England would be inundated with new comers, and that there would not be sufficient provision for the children of the soil. He answered, that no such incursion was to be expected. Men were not to be moved as easily as cattle. If a stranger brought with him no means of his own, and had no way of supporting himself in the country to which he came, he would starve. But even if this were not the case, he denied that England was fully peopled. The country could with ease support a larger population than it had ever yet known. Fens, commons, and wastes were crying out for the hand of the cultivator. If this were too little, the sea was open. Commerce would give support to thousands. Ireland was waiting for colonists to cultivate it, and the solitude of Virginia was crying aloud for inhabitants.‡ To the objection that it was unfair to unite poor Scotland to rich England, he replied that it was well that the difference consisted 'but in the external goods of fortune; for, indeed, it must be

\* Essay on Counsel.

† Bacon's speech. *Works* (ed. Montagu), v. 47.

‡ The allusion to Virginia is not in the printed speech, but is to be found in the journals.

CH. VI.  
1607.

confessed that for the goods of the mind and the body they are' our other 'selves; for to do them but right,' it was well known 'that in their capacities and understandings they are a people ingenious; in labour, industrious; in courage, valiant; in body, hard, active, and comely.' The advantages of a union with such a people were not to be measured by the amount of money they might have in their pockets. With respect to the legal part of the question, he expressed himself satisfied that the Post-nati were already naturalised; but he thought it advisable that this should be declared by statute. He concluded by pointing out the dangers which might ensue if the present proposals were rejected. Quarrels might break out, and estrangement, and even separation might follow. If, on the other hand, the House would put all prejudices aside, they would make the United Kingdom to be the greatest monarchy which the world had ever seen.

One point  
passed  
over by  
Bacon.

Admirable as this argument was, and conclusively as it met all the objections which had been raised by the prejudices of the time, it is plain that there was one part of Fuller's speech which it left wholly unanswered. If England and Scotland were called upon to unite because all persons born after the King's accession were born within the King's allegiance, why might not Spain and England be called upon to unite under similar circumstances? Bacon and the judges might repeat as often as they pleased that the naturalisation of the Post-nati was in accordance with the law; the common-sense of the House of Commons told them that it ought not to be so. Since the precedents had occurred upon which the judges rested their opinion, circumstances had changed. In the thirteenth and fourteenth centuries the ties of allegiance had been much stronger, and the ties of nationality much weaker, than they afterwards became. The safest course for the Commons to have taken, would have been to have made their acceptance of the Union contingent upon the King's assent to an Act declaring that, in all future cases, naturalisation should not follow mere allegiance. They preferred

to dispute the point of law, in which they were sure to have the judges against them as well as the King.

In the conference which ensued,\* Sir Edwin Sandys argued the question from the Commons' point of view. He boldly declared that times were changed, and that the precedents were of no avail under the altered circumstances.† The lawyers of the Lower House were less successful. Instead of assailing the position in the only way in which it was possible to succeed, they attempted to support their conclusion upon technical grounds. The judges being consulted, gave their opinions, with one exception, against the theory of the House of Commons, Coke especially bringing his immense stores of learning to bear upon the case.

For once in his life he and Bacon were agreed. But it need hardly be said, that if they came to the same conclusion, they did not arrive at it by the same road. Bacon, in his enthusiasm for the cause in which he was engaged, had overlooked the evils which might hereafter ensue from the admission of those technical grounds upon which part of his argument was based, but which can hardly be supposed to have had any part in influencing his judgment. To Coke those technical grounds were everything. For the broader aspects of the case he cared nothing; but his reverence for the English common law amounted to a passion. He considered the system of which he was the acknowledged master to be the purest emanation of perfect wisdom. Whatever opposed the common law was treated by him with contemptuous arrogance. For the sake of the common law he had bullied Jesuits in his youth; for the sake of the same common law he was in his old age to stand forward to oppose his Sovereign. On this occasion there could be no doubt which side of the question would receive his support. English law had grown up under two distinct influences. The influence of the

CH. VI.

1607.

Confer-  
ence with  
the Lords.

Opinion of  
Coke in  
favour of  
the natura-  
lisation of  
the Post-  
nati by the  
common  
law.

\* *State Trials*, ii. 562. *C. J.*, i. 345. Note of the speeches of Popham and Coke, Feb. 28, *S. P. Dom.* xxvi. 64; calendared as Coke's speech alone, and dated Feb. 25.

† This appears more clearly from the report in the journals from that in the *State Trials*.

CH. VI.  
1607.

judges had drawn it in one direction, the influence of Parliament had drawn it in another. The natural tendency of the judges was to put forward on every occasion the authority of the Sovereign; the natural tendency of Parliament was to give expression to the rights of the nation. It happened that Parliament had never had occasion to legislate directly upon the subject, and Coke had no difficulty in quoting precedent after precedent to show that the decisions of the courts were all in favour of his doctrine of naturalisation by allegiance. The appeal of Sandys to a reasonable construction of the law in consequence of the altered condition of the country, he treated with cool contempt. He was there to declare what the common law declared, and of any other argument he knew nothing.

The Commons refuse to give way.

The Commons stood firm: they knew that whatever might be the value of Coke's arguments, they were in the right on the main point, and they were determined not to allow questions of such national importance to be determined by such accidents as the marriages of Sovereigns must always be. Whilst they doubted what course to take they were informed that the Lords had consented to waive the point,\* and would be willing to hear any practical suggestion which the Commons might agree to make.

At the Lords' request, they propose a measure on the subject.

Accordingly, on the 14th of March, they made a proposal of their own.† They were ready to do away with the distinction between the Ante-nati and the Post-nati, and were willing to naturalise by statute all the King's Scottish subjects. They would thus get rid of the difficulty attending the exercise of the prerogative. A clause was to be introduced, declaring those who held property in England to be subject to all the burdens connected with it; and it was to be added that natives of Scotland were to be excluded from certain

\* A paper in the *S. P. Dom.* xxvi. 69, concerning Scotchmen created Peers in England, is endorsed by Salisbury, 'All other laws make them aliens, precedents contrary, reason, nature.' On this point the Lords must have been with the Commons almost to a man.

† *Cott. MS. Tit. F. iv. fol. 53.* The debate in committee of March 6, on which the proposal was founded, is reported in *S. P. Dom.* xxvi. 72.

official positions. The proposed measure would have met all the difficulties of the case. The disqualifying portions of the Act would certainly be repealed as soon as the natives of England and Scotland began to feel that they were in reality members of a common country.

The Government desired time to consider the proposition made to them. They accordingly took the somewhat extraordinary step of advising the Speaker to exaggerate a slight indisposition, in order that the Commons might be unable, in his absence, to proceed to any business of importance.\* At last it was known that the King would himself address the two Houses. The speech which he delivered on this occasion† was decidedly superior to any that had yet fallen from his lips. For once he had a cause to plead which was not his own, and in pleading the cause of his country, and in striving to promote the future welfare of both nations, he allowed but few traces to be seen of that petulance by which his speeches were usually disfigured. He told the Houses plainly, that he looked forward to a perfect union between the countries; but he told them no less plainly, that he was aware that such a union would be a question of time. For the present, all that he asked was the passing of the measure now before them. Though he trusted that they would not object to a complete naturalisation of the Post-nati, he would be ready to consent to any reasonable limitations upon his right of appointment to offices under the Crown. The tone of this speech, so much kindlier and more earnest than had been expected, produced a favourable impression on the House of Commons, and it was thought by some that if the question had been put to the vote immediately, the King would have obtained the greater part of his demands.‡ The speech was, however, followed by an adjournment for nearly three weeks, and when the House met again after Easter the impression had worn off. There was much discussion upon the course to be

CH. VI.  
1607.

The King's  
speech.

\* Salisbury to Lake, March 18, *S. P. Dom.* xxvi. 90.

† *C. J.*, 357.

‡ Boderie to Puisieux, April <sup>26th</sup>/<sub>16th</sub>, 1607, *Ambassades*, ii. 168.

CH. VI.

1607.

Abolition  
of hostile  
laws, and  
extradi-  
tion of  
criminals.

pursued, and it was only after the King had rated them for their delay that the House determined to confine its attention to the points upon which there was little difference, and to reserve the questions of commerce and naturalisation for future consideration. A Bill was accordingly drawn up for the abolition of those laws in which Scotland was regarded as a hostile country, on the condition that statutes of a similar description should be repealed in the next Parliament which met in Scotland. It was also decided to introduce into this Bill clauses regulating the manner in which Englishmen were to be brought to trial for offences committed in Scotland. During the last four years much had been done for the pacification of the Borders. The transportation to Ireland of many of the worst offenders had been attended with satisfactory results, and the harmony which now for the first time existed between the officers on the two sides of the frontier, had brought some kind of peace and order into that wild district. Still, the old mosstrooping spirit was not to be changed in a day. The Commissioners had therefore proposed that persons charged with criminal offences of a certain specified character should be handed over for trial to the authorities of the kingdom in which the offences had been committed. In this proposal, which had been acted upon since the accession of James, they were supported by the Commissioners for the Borders, who, as well as the gentry\* of the northern shires, were unwilling to see any change introduced which would lessen the chances of bringing to conviction the Scottish plunderers who still infested their lands. They knew that if the thief were to be sent back to be tried in his own country, it would be impossible to procure a conviction, as no witness would dare to present himself among the neighbours of the accused person.

The House of Commons looked at the question from a different point of view. The Northern gentry had been eager to support a system which made conviction easy, but they had forgotten to inquire how it would

\* C. J., i. 377.



work in the case of an innocent man. Under it, an Englishman charged with a crime which he had not committed, might be sent into Scotland for trial. When he was once amongst his accusers, he could hardly hope to escape the gallows. The House of Commons preferred the safety of the innocent to the certainty of condemning the guilty.\* In the spirit which was afterwards to pervade the criminal jurisprudence of the country, they decided that the accused should be tried on his own side of the Borders. Nor was the House content even with this safeguard against an unjust verdict. By an iniquitous custom which had become the tradition of the law of England, no counsel was allowed to speak on behalf of a prisoner accused of felony, nor was an oath administered to the witnesses who were called to speak on his behalf. This custom was the relic of a system which had long passed away. As long as the jury were sworn witnesses, they only called in additional witnesses for the purpose of obtaining further information. The prisoner did not call any witnesses at all. In due course of time, the sworn witnesses became judges of the fact, and the witnesses for the prosecution were regarded as accusers, in some measure filling the places of the old sworn witnesses. While, therefore, an oath was tendered to them, persons who might appear to give their testimony on behalf of the prisoner, were looked upon as irregularly present, and were left unsworn. The consequence was, that an excuse was given to an unfair jury to neglect evidence tendered in support of the prisoner, because it had not been confirmed by an oath.

As usual, the lawyers had invented reasons for approving of a custom which had grown up unperceived amongst them. When Sandys proposed that the prisoners in Border trials should be allowed the assistance of counsel, and added, that he should be glad to see the same course adopted over all England, Hobart immediately rose and declared that he regarded this as an attempt to shake the corner-stone of the law, and

\* Yet, in 1610, they changed their minds, and repealed this clause. The Repealing Act (7 & 8 Jac. I. cap. 1), however, was only to be in force till the next Parliament, when it expired, the Parliament of 1614 being dissolved before there had been time to consider the subject.

CH. VI.

1607.

Prisoners  
to be tried  
in their  
own  
country.

CH. VI.  
1607.

advised that such suggestions should be reserved for the time when they might be deliberating on a general revision of the laws of the two countries.\* In a similar spirit, arguments were brought against the proposal to allow the witnesses of the prisoner to be sworn.† In spite of all opposition, the proposed clause was carried. Another clause was also carried, which ordered that juries should be chosen from a higher class of men than that from which they were selected in the rest of the country, and power was given them to reject such witnesses as they might suppose to be inclined, from affection or malice, to falsify their evidence. Nothing, however, was done to give the prisoner the benefit of counsel.‡

Proroga-  
tion of  
Parlia-  
ment.

As soon as the Bill was passed, this long session was brought to a close. Parliament, at its rising on the 14th of July, was prorogued to the 10th of November; the Members would thus be able to consider at their leisure the proposed Bills for liberty of commerce with Scotland, and for naturalisation. At first it seemed likely that this course would be adopted. The Scottish Parliament met in August, and assented to the whole of the King's scheme, with the proviso that it should not be put in action till similar concessions had been made by England. If the House of Commons had been allowed to go on with its work, it is highly probable that, with judicious treatment, it might have been brought to accede to the greater part of the King's demands. Unfortunately other counsels prevailed. James determined to avail himself of the known opinions of the judges, to obtain a formal declaration from them of the right of the *Post-nati* to naturalisation without any Act of Parliament. A piece of ground was accordingly bought in the name of Richard Calvin, an infant, who had been born at Edinburgh in 1605, and an action was brought in his name against two persons who were supposed to have deprived him of his land. At the same

\* Notes of proceedings, May 29, *S. P. Dom.* xxvii. 30.

† Collection of arguments in the House of Commons, June 5, 1607, *S. P. Dom.* xxvii. 44.

‡ 4 Jac. I. cap. 1.

time, a suit was instituted in Chancery against two other persons for detaining papers relating to the ownership of the land. In order to decide this case, it was necessary to know whether he were not an alien, as, in that case, he would be disabled from holding land in England. The case was adjourned into the Exchequer Chamber, before the Chancellor and the twelve judges. Two only of the judges argued that the child was an alien; the others, together with the Chancellor, laid down the law as they had previously delivered it in the House of Lords, and declared him to be a natural subject of the King of England.\*

CH. VI.

1607.

The Post-nati admitted to naturalisation by the judges.

James had gained his point, and had succeeded in establishing that naturalisation followed allegiance to the King; but, in doing this, he had given up what was far more important for the real interests of his subjects. It mattered little to Scotland whether a Scotchman should have the power of inheriting land in England, but it was of the utmost consequence that the commerce of the two countries should be enlarged, by taking away the barriers which had been thrown up between them. James, who was probably ignorant of the value of that which he had lost, had snatched at the shadow and thrown away the substance. After the judgment in the Exchequer Chamber, it was useless to call upon Parliament to consider any measure connected with the Union. It was therefore prorogued from time to time, till questions of a very different nature made it necessary to summon it again.

If, however, James was unable to procure the complete success of his scheme, he was at least able to reward those who had cooperated with him in its progress. Bacon, who had employed all his energies in forwarding a work which he had adopted with his whole heart, after years of weary waiting, obtained the office of Solicitor, Doderidge having been at last induced to remove to the post of King's Serjeant, according to the arrangement which had been prepared by Ellesmere in the course of the previous summer.

Bacon appointed Solicitor.

\* *State Trials*, ii. 559. There are also notes among the *S. P.* of the judgments given separately, *Dom.* xxxii. 40, and xxxiv. 10.

## CH. VI.

1607.

Disturbances in the Midland Counties.

While Parliament was still sitting, news was brought of disturbances in the Midland Counties. It was one of the last of those commotions which had so often excited the populations of the country districts during the sixteenth century. The turning of arable land into sheep-farms had often caused great misery amongst the tenants, who were turned out of their holdings. The evil was aggravated by the want of an efficient poor-law, and by the obstructions thrown in the way of those who were willing to change their occupation, by the strictness of the apprenticeship system in the towns. In the beginning of the seventeenth century, at the expense of much misery, the inevitable change had been almost entirely accomplished. But in Leicestershire and the adjoining counties special circumstances still continued to cause misery amongst the agriculturists. In addition to the sheep-farms, which were still extending their limits, several gentlemen had been enclosing large parks for the preservation of deer. An insurrection broke out, the violence of which was principally directed against park-pales and fences of every description. It was, however, suppressed without difficulty; and though some of the ringleaders were executed, the King gave special orders to a Commission issued for the purpose of investigating the cause of the disturbances, to take care that the poor received no injury by the encroachments of their richer neighbours. As no further complaints were heard, it may be supposed that his orders were carried out.

The Spanish grievances.

The Union was not the only subject which had occupied the attention of the House of Commons during the late Session. They had been busy in collecting the complaints which the merchants who traded with Spain had preferred against that power, and had pressed the Government to assume a more hostile attitude towards the old enemy of England.

Principles of the Spanish Government.

Many circumstances had contributed to prevent the treaty of peace with Spain from ripening into a warm alliance. Although the Spanish Government, under the influence of Lerma, had given up its pretensions to sway the destinies of Europe, and to make and unmake Sove-

reigns at pleasure, it was evident that the principles upon which those pretensions had been based had not been surrendered. The weakness of the monarchy made it impossible for it to attempt any longer to carry out the schemes of Philip II.; but there could be no doubt that whatever could be effected by intrigue and diplomacy would be done to maintain and extend the Papal cause amongst the nations of Europe.

CH. VI.

1804.

The policy which was adopted by James, under Salisbury's guidance, was, on the whole, though open to objection as being occasionally deficient in boldness and in moral energy, the best and wisest course which it was possible for him to pursue. Neither the pecuniary resources nor the military power of England would have been sufficient to enable him to do more than make desultory attacks upon the outskirts of the Spanish monarchy, and perhaps to throw some little additional weight into the scale of the Dutch Republic. It was better and wiser to adopt a policy which, whilst it husbanded the resources of the country by the economy which peace alone rendered possible, yet kept constantly on the watch against the designs of Spain, and was ever ready to meet its aggressive diplomacy by a firm union with those powers who were anxious, either from religious or political motives, to maintain their independence.

Salisbury's  
foreign  
policy.

Such was the idea which animated Salisbury's foreign policy during the remaining years of his life. If James had known how to practise economy as well as he knew how to talk about it, and if he had been able to comprehend the temper of the English nation, and to avert the coming storm at home, this policy would have received far greater applause than it has been its lot to obtain. Its wisdom would have been conspicuous, if it had not been read in the light of that desperate failure which covered James's later years with disgrace.

The refusal of the Dutch to take part in the treaty had rendered doubtful the prospect of carrying out this policy with complete success. Salisbury looked with apprehension upon the chances of their resisting the weight of the whole Spanish monarchy; but he could do nothing beyond rendering them every assistance

His con-  
duct to-  
wards the  
Dutch.

CH. VI.  
1604.

which was compatible with the most lax interpretation of the treaty with Spain, and waiting till some turn of fortune might induce them to give up their extreme pretensions.

The  
French  
alliance.

In order to preserve the independence of Europe, it was necessary that England should continue on terms of intimacy with France, which was now recovering, under Henry IV., the vigour which it had lost during the Civil wars, and was standing in steady, though undeclared, opposition to Spain. Yet, necessary as this French alliance was to England, it was not unaccompanied by difficulties. Salisbury was not anxious to see another kingdom step into the place which had lately been occupied by Spain. Above all things, he did not wish to see the Spanish Netherlands in the hands of the power which already possessed such a large extent of coast so near to the shores of England. The prospect of danger which might possibly arise from such an increase of the dominions of the King of France, imparted a certain reticence, and even vacillation, to his dealings with the French ambassador, which increased the uncertainty of the policy of the English Government.

The com-  
mercial  
treaty.

Happily, whatever might occur in future times, there were, at the accession of James, no points of difference between France and England, excepting a few difficulties which had been thrown in the way of the English merchants who were engaged in the French trade. These were, however, removed by the signature of a commercial treaty, which directed the appointment of a permanent commission, composed of two English and two French merchants, who were to sit at Rouen for the settlement of disputes. Henry also gave up the iniquitous *Droit d'aubaine*, by which the King of France laid claim to the goods of all foreigners dying within his dominions.\*

Difficulty  
in inter-  
preting the  
treaty of  
Hampton  
Court.

There was more difficulty in coming to an agreement upon the meaning of the treaty which had been signed at Hampton Court in 1603. According to its stipulations, France had furnished the Dutch with a considerable sum of money, deducting a third part from the debt

\* *Rymer*, xvi. 645.

CH. VI.  
1804.

owed by Henry to the King of England. As soon as the Spanish treaty was signed, Salisbury, who knew that James had no money to spare, declared that the agreement with France was no longer in force—an opinion which appears to have derived some colour from the somewhat ambiguous terms in which the treaty was couched. The French Government was of a contrary opinion, and continued to furnish the sums required by Holland in yearly payments, and to deduct a third of these payments from the English debt.\*

The relations with the States-General required far more careful consideration. It was certain that they would feel aggrieved at the treaty with Spain, and it was equally certain that the Spaniards would urge the English Government to break off all intercourse with the Republic.

The first difficulty was presented by the expectation of the Spaniards that the English merchant-vessels would be supported by their Government in forcing the blockade of the ports of Flanders. The merchants themselves were eager to open a new trade, and a large number of vessels made the attempt to get through the Dutch squadron. The Dutch were not likely to consent to see the fruit of their efforts to starve out their enemies thus thrown away in a day. The English vessels were stopped, and their crews were subjected to no gentle treatment.† Nor were the Dutch content with blockading the ports of Flanders. They pretended to be authorised to stop all trade with Spain, and captured upon the high seas some English vessels which were employed in carrying corn to that country.‡ This latter pretension was, of course, inadmissible; but Salisbury had no intention of supporting the merchants in forcing an actually existing blockade. In order, however, to fulfil the stipulation by which England was bound to take measures for opening the trade, a despatch was sent to Winwood, who represented the English Government in Holland, directing him to request the States to be more moderate in their

The  
blockade  
of the  
Flemish  
ports by  
the Dutch.

\* An account of the money paid is among the *S. P. Holland*, 1809.

† Winwood to Cecil, Sept. 12, 1804, *Winw.* ii. 31; and Sept. 28, 1804, *S. P. Holland*.

‡ Edmondes to Winwood, Sept. 30, 1804, *Winw.* ii. 33.

CH. VI.  
— 1604.

proceedings, 'and to beg them to agree to some regulations under which trade might, to a certain extent, be still carried on.'\* A little later, a direct proposition was made, that the States should allow English vessels to go up to Antwerp, on payment of a toll.† The States refused to accept any proposition of the kind, and the ports remained blockaded till the end of the war. The English merchants who complained to their Government of the loss of their vessels received but cold answers, and were given to understand that there was no intention of rendering them any assistance. The pretension of the States to cut off all trade from Spain itself, without enforcing an actual blockade, was quietly dropped.

Levies for  
the States.

Although James had refused to advance any further sums of money to the States, he still allowed the levy of troops for their service in his dominions. A similar permission could not be refused to the Archduke; but every difficulty seems to have been thrown in his way by the Government.‡

Difficulty  
of preserv-  
ing neu-  
trality.

It was not without difficulty that the neutrality of the English ports was preserved. Questions were sure to arise as to the exact limits of the sovereignty of England. The crews of the fleet which guarded the Straits, under the command of Sir William Monson, were roused to indignation at the treatment which the sailors on board the merchant-vessels who had endeavoured to break the blockade had received at the hands of the Dutch. Whilst, therefore, on land scarcely an Englishman was to be found who did not favour the cause of the States, the sailors on board the fleet were animated by very different feelings. § They even went so far as to capture a Dutch ship which was coming up the Straits with the booty which had been taken out of a Spanish prize. || The excuse probably was that it had come too near the

\* Nottingham, &c., to Winwood, Oct. 25, 1604, *S. P. Holland*.

† Winwood to Cranborne, Feb. 10, 1605, *S. P. Holland*.

‡ Beaumont to the King of France, March  $\frac{2}{15}$ , April  $\frac{15}{26}$ , May  $\frac{22}{26}$ , June 1, 1605, *King's MS.* 128, fol. 236 b, 254 b, 440 a.

§ Chamberlain to Winwood, Feb. 26, 1605, *Winw.* ii. 48.

|| Beaumont to the King of France, Feb.  $\frac{2}{15}$ , 1605, *King's MS.* fol.



English coast. The capture was, however, annulled by the Court of Admiralty.\*

In the summer of 1605 the question of the neutrality of our ports was brought to a crisis. The Spanish admiral, Don Louis Fajardo, had received orders to transport 12,000 men from Spain into the Netherlands. If, as was not improbable, he was unable to land them in Flanders, he was to set them on shore in England, where it was supposed that they would obtain protection till means could be obtained to send them across the Straits in small boats which might slip over from time to time. The execution of this commission was intrusted by the admiral to Pedro de Cubia, who seized upon a number of foreign vessels which happened to be lying at Lisbon, and converted them into transports for his soldiers. One of these was an English vessel, and another was the property of a Scotchman.

On the 14th of May the fleet left Lisbon. By the time that they had arrived at the entrance of the Channel, its movements were known to the Dutch Admiral Haultain. Consequently, he took up a position off Dover, with the intention of barring the passage of the Straits. The Spaniards neglected even to take the ordinary precaution of keeping together. On the 2nd of June, two of their ships found themselves in the presence of the enemy. The crews, after firing a few shots, ran them both on shore. A few of those who were on board escaped by swimming. The remainder, according to the custom which prevailed in those horrible wars, were massacred to a man.

The next day the eight remaining vessels came up. The leading ship, on board which was the Spanish admiral, was the English merchantman which had been seized at Lisbon. The English crew were still on board, and their knowledge of the coast stood the admiral in good stead. They kept the vessel close to the shore, and were able to slip into Dover harbour without suffering much damage. Of the others, one was cut off by the enemy. As on the preceding day, the Dutch took few

CH. VI.

1605.

Conflict  
between  
Spanish  
and Dutch  
ships in  
Dover  
harbour.

\* Beaumont to Villeroi, April 2<sup>d</sup>, 1605, *King's MS.* 128, fol. 346 b.

CH. VI.  
1605.

prisoners, and threw the greater part of the officers and men into the sea. Two more vessels shared the same fate. They attempted to run on shore, but were boarded before the crews could escape. The remaining four made their way into the harbour. But even here they were not safe. The Dutch, in the ardour of the combat, forgot that their enemies were now under the protection of the English flag. This was too much for the Commander of the Castle, who had for two days been a spectator of the butchery which had been committed under his eyes. He gave orders to fire upon the aggressors, who drew off with the loss of about a hundred men.

Negotiations respecting the Spanish soldiers.

This affair gave rise to a long series of negotiations. The Spanish ambassador, thinking that James would be sufficiently annoyed at the proceedings of the Dutch fleet to grant him anything which he might choose to ask, had the effrontery to demand that the remainder of the troops should be convoyed to Flanders under the protection of the English fleet. This was at once refused, but James allowed himself to be prevailed upon to request the States to give permission to the Spaniards to pass over. When he heard that this request had been refused, he offered to allow them to remain at Dover as long as they were maintained at the expense of the King of Spain. This offer was accepted, and they remained in England for some months. Their numbers were much thinned by destitution, caused by the neglect of their own Government. At last, in December, the handful that remained took advantage of one of the long winter nights, when the blockading fleet had been driven from the coast by a storm, and made their way over to Dunkirk and Gravelines.\*

Englishmen ill-treated by the Inquisition in Spain.

In Spain itself, the English merchants who had begun, even before the conclusion of the treaty, to visit the country, were but ill satisfied with the treatment they received. The officers of the Inquisition declared loudly that they were not bound by the treaty, as their authority

\* Meteren, compared with the papers in *Winwood*, and in the Holland series in the *S. P.*

was not derived from the King of Spain.\* On the arrival of the Earl of Nottingham, who was sent over on a special mission to swear to the peace on behalf of the King of England, the Spanish Government at first declined to include in the instrument of ratification the additional articles by which English Protestants were freed from persecution. Nottingham refused to give way, and the whole treaty was solemnly ratified.† But it was not long before Sir Charles Cornwallis, who remained in Spain as the ordinary ambassador, had to complain that these articles were not carried into execution. As soon as an English ship arrived in port, it was boarded by the officials of the Inquisition, who put questions to the sailors about their religion, and searched the vessel for heretical books. If any of the crew went on shore, they were liable to ill-treatment if they refused to kiss the relics which were offered to them as a test of their religion. It was not till nearly four months after the ratifications had been exchanged that an order was obtained from the King, putting a stop to these practices.‡

The Spanish Government had long been eager to convert the peace into a close alliance with England. In 1604 the Constable of Castile had attempted to induce James to listen to proposals for a double marriage of his children with the heir of the Spanish Crown and his sister the Infanta Anne. The proposal had not met favour in the eyes of James, and on his way home the Constable had made an offer of a similar alliance to the King of France, which had been summarily rejected.§ In July 1605, hints were again thrown out to Cornwallis at Madrid, that the King of Spain would gladly see his eldest daughter married to Prince Henry. Spain would surrender to the young couple its claims to a large portion of the Netherlands. If the proposed marriage were not agreeable, a large sum of money, as well as the possession of some fortified towns in the Low Countries, would be

CH. VI.  
1605.

Proposition for a marriage between the Prince of Wales and the Infanta.

\* Chamberlain to Winwood, Dec. 18, 1604, *Winw.* ii. 41. Letters received from Spain by Wilson, Dec. 14 and 17, 1604, *S. P. Spain*.

† Two letters of Cornwallis to Cranborne, May 31, 1605, *S. P. Spain*.

‡ Memorial presented by Cornwallis, Sept. 14, 1605, *S. P. Spain*.

§ Sully, *Econ. Royales*, Coll. Petitot, v. 369. Guizot, *Un Projet de Mariage Royal*, *Revue des Deux Mondes*, 15 Juillet, 1862. Tome xl. 269.

CH. VI.  
1605.

guaranteed to James if he could persuade the Dutch to give up their independence upon certain conditions which were afterwards to be agreed upon. Salisbury, who probably thought that these overtures might be made the basis of negotiations which might give peace to the Netherlands, and who was compelled by the receipt of his pension to keep up at least the appearance of a good understanding with the Court of Spain, directed Cornwallis to ask that some definite proposal should be submitted to him.\* The suggestion that James should mediate was repeated. After some delay, the English Council directed Cornwallis to inform the Spaniards that James was unwilling to propose to the States to accept his mediation, as it was certain that they would refuse to submit to their old masters upon any terms. If, however, the Spaniards still desired it, he would direct Sir Ralph Winwood to sound the minds of the Dutch upon the subject. If, on the other hand, the alternative of the marriage were preferred by Spain, he would ask the States whether they would be willing to receive his son as their Sovereign. The Spaniards, however, who had perhaps never intended to do more than to lure James away from his alliance with the Dutch, upon further consideration raised objections to the marriage of the Infanta with a Protestant, and the negotiations fell to the ground.

1606.

Growing  
coolness  
between  
Spain and  
England.

After the discovery of the Gunpowder Plot, all chance of a close alliance between the two Governments was at an end. The knowledge that the English troops in the service of the Archduke had been intended by the conspirators to cooperate with them by invading England, induced James to refuse to allow any further levies to be made.† A few weeks later, a clause in the new Recusancy Act prescribed that no person should be allowed to leave the realm without taking the oath of allegiance, which must have effectually prevented many from passing over to Flanders. Nor was the news of

\* Salisbury to Cornwallis, Oct. 24, 1605, *Winw.* ii. 147; and a series of documents commencing at p. 160.

† Salisbury to Winwood, March 15, 1606.

the severity with which the Catholics were treated in England likely to make James popular in Spain. James, on his part, was no less irritated at the refusal of the Archduke to give up Owen and Baldwin, and he knew that in the course which had been taken, the Court of Brussels had the full support of that of Spain.

CH. VI.

1606.

Nor was James unwarranted in supposing that the feeling of horror with which he was regarded in Spain might lead to the formation of fresh conspiracies against his person. At no time were the despatches of the ambassadors at Madrid and Brussels fuller of reports of plots and conspiracies than in the summer of 1606. Of these plots, however, one only came to a head.

Plots  
formed in  
Spain.

On the 6th of July, a certain Captain Newce\* was brought before the Privy Council. His account of himself was, that he had served in Ireland during the war, but had been dismissed from his post when the army was reduced. In May 1605, he had come to London, and, at Salisbury's recommendation, the Dutch ambassador had promised him a captain's command if he could succeed in levying a company for the States. With this object in view he returned to Ireland, provided with recommendatory letters to the Deputy. Ireland was at this time full of discharged soldiers, whose services were no longer required. When he arrived there, he found that he was too late, as all the Englishmen who were willing to serve the States had already given in their names to another officer who was employed on a similar errand. He then tried to prevail upon Irishmen to serve under him. They told him that they had no objection to enlisting again, but that, if they were to fight at all, they preferred fighting on the side of Spain. Newce, who like many others in the days before the army had become a profession for life, had no scruples in joining any side which would pay him, readily assented, and sailed for Spain with two hundred men. Upon his arrival, the authorities, who knew that he had formerly served under the English Government, put him in prison as a spy, and dispersed his men amongst different

Newce's  
examina-  
tion.

\* Declaration of Captain Newce, July 6, 1606, *S. P. Dom.* xxii. 34.

CH. VI.  
1606.

regiments. Shortly after this he fell in with a Colonel Franceschi, who incited him to take vengeance upon the English Government, by which he had been deprived of his command in Ireland. He obtained from him several particulars of the state of the Irish fortifications, and told him that, if war should break out, he should be provided with £10,000 and a force with which he might invade that country. Franceschi, who had probably received some vague intelligence of the existence of the Gunpowder Plot, added that peace could not long endure. Ere long, he said, he would hear strange news from England, where, if he had not been deceived, there would be great changes before Christmas. Meanwhile, it was suggested to him that he would do good service if he would go into the Low Countries and enter into a correspondence with some of his old comrades who were in the service of the States, as he might be able to induce them to betray some of the towns which were intrusted to their keeping.

Newce accordingly left Spain, as if for the purpose of travelling into Flanders; but instead of going directly to his destination, he slipped over to England, and told the whole story to Salisbury, who directed him to continue on good terms with Franceschi, and to let him know when any plot which might be in hand was ripe for execution. Going over to the Low Countries, he again met Franceschi, and was told by him of a secret service which would bring him great rewards. He could not obtain any information of the nature of this service, but he was informed that if he would go into England, a brother of Franceschi's should join him there, and acquaint him with all that was necessary for him to know. He accordingly returned to England in the beginning of March. It was not till the 29th of June that Thomaso Franceschi, who had been sent over by his brother, joined him at Dover. He had crossed in companionship with an Irishman, named Ball, who acted as secretary to the Spanish ambassador in London. Upon their arrival in London, if Newce is to be believed, Franceschi offered him £40,000 as a reward for the service which he was to perform, but refused to tell him what it

He is asked  
to betray  
some  
Dutch  
fortified  
towns.

was, unless he would take an oath of secrecy. He was also to find an associate, and to send his own wife and child, as well as the wife, son, or brother of his associate, to Antwerp, to be kept as hostages for his fidelity. After making some difficulties, he was at last induced to take the oath of secrecy, and was told that he was required to assist in betraying Bergen-op-Zoom, Flushing, or Rammekens. On the following day he met Franceschi upon Tower Hill. He had taken the precaution of requesting a friend named Leddington to follow them, and to do his best to overhear their conversation. Franceschi repeated the proposal of betraying Flushing, and they went down the river together to look for a vessel to take Newce over to Holland. Leddington\* asserted that, as they were returning from a fruitless search for such a vessel, he overheard Franceschi say, 'A brave-spirited fellow, with a good horse and a pistol, might do it and go a great way after in a day and night;' to which Newce answered, 'The best time for it would be when he did hunt at Royston.' These words were declared by Newce to have been part of a conversation in which Franceschi proposed to him to murder the King; and it must be confessed that, if they were really spoken, they could bear no other interpretation.

CH. VI.

1806.

Proposal  
to murder  
the King.

On the following morning, Newce met Franceschi at the Spanish ambassador's. He told him that there were difficulties in the way of betraying the towns in the Netherlands. Soon after these words had passed between them, Ball offered Newce some sweetmeats, some of which he ate at the time, and the remainder he took home, where he and his wife, and some other women, partook of them. Soon afterwards, all who had tasted them were seized with sickness. A physician who was sent for declared that they had been poisoned. Newce immediately sent to inform Salisbury of what had happened.† Franceschi was at once arrested. The Spanish ambassador refused to surrender Ball, upon which Salisbury

Ball's at-  
tempt to  
poison  
Newce.

Franceschi  
and Ball  
arrested,

\* Deposition of Leddington, July 6, 1806, *S. P. Dom.* xxii. 33.

† *Ambassades de M. de la Boderie*, i. 203. This account agrees with that given in the papers in the *S. P.*, excepting in some of the dates.

CH. VI.  
1608.

sent to seize him, even in the ambassador's house. Franceschi admitted that there had been a plot for the betrayal of one of the towns, but denied that he had ever said a word about murdering the King.\* Newce, however, when confronted with him, persisted in the truth of his story. Ball, after some prevarication, admitted that he had given the sweetmeats to Newce.

but are sub-  
sequently  
released.

If Franceschi had been an Englishman, and if Ball had not been under the ambassador's protection, further inquiries would undoubtedly have been made. As the matter stood, the Government thought it prudent to let the investigation drop. Newce's character was not sufficiently good to enable Salisbury to rely upon his evidence, and he was unwilling to give further provocation to the ambassador, whose privileges he had recently set at nought, by ordering an arrest to be made in his house. It was not long before Ball was set at liberty; Franceschi was kept in the Tower for more than a year, at the expiration of which time, he, too, was allowed to leave the country.†

The  
wrongs of  
the Eng-  
lish mer-  
chants.

Whilst the Spaniards were feeling more and more hostile against England, there was little hope that the English merchants who fell into their power would receive even simple justice at their hands. The poverty and distress of the monarchy was only equalled by the exorbitance of its pretensions, founded, as they were, upon the traditions of a claim to almost universal sovereignty. The slightest suspicion of the presence of Dutch goods on board an English ship was enough to give rise to the seizure of the whole cargo. The merchants complained, with reason, of the wearisome delays of the Spanish courts. Whatever had once been confiscated upon any pretext, was seldom, if ever, restored. Even if the owner was sufficiently fortunate to obtain a decision in his favour, the value of the property was almost invariably swallowed up in the expenses of the suit, swollen, as they were, by the bribes which it was necessary to present to the judges. It was suspected that the Government was as often prevented from doing

\* Examinations of Franceschi, July 6 and 12, 1606, *S. P. Dom.* xxii. 39, 51.

† Boderie to Puisieux, <sup>Aug. 29,</sup> Sept. 8, 1607.



justice by its inability to furnish the compensation demanded, as from any intention to defraud. But whatever its motives may have been, the consequences were extremely annoying. That English ships trading with America should have been seized, can hardly be considered matter for surprise. But English patience was rapidly becoming exhausted, when it was known in London that ship after ship had been pillaged, upon one pretence or another, even in the Spanish waters. Cornwallis represented to the Spanish Government the hardships under which his countrymen were suffering. He was met with smooth words, and promises were given that justice should be done; but for a long time these promises were followed by no practical result whatever.

The merchants determined to petition the House of Commons, which was not so fully occupied with the debates on the Union as to be unable to afford time to a subject on which they felt far more deeply. They selected the case of the *Trial*, as one which was likely to move the feelings of the House. On the 26th of February, 1607, Sir Thomas Lowe, one of the members for the City of London, brought their case forward. The *Trial*, on her return from Alexandria, in the autumn of 1604, had fallen in with a Spanish fleet. The Mediterranean was at that time infested by swarms of pirates, in whose enterprises Englishmen had taken their share. The Spaniards, on their part, were not content with attempting to repress piracy. Orders had been given to their officers to prevent all traffic with Jews and Mahommedans, on the ground that it was unlawful to trade with the enemies of the Christian religion. On this occasion, the purser of the *Trial* was summoned on board the admiral's ship, and was told by that officer,—so runs the narrative which was read in the House of Commons—‘that he was commanded to make search for Turks’ and Jews’ goods,\* of which, if our ship had none aboard, he then had nothing to say to them, for that now a happy peace was concluded between the Kings, so as they would but only make search, and, not finding any,

CH. VI.  
1606.

1607.  
The merchants  
petition  
the House  
of Com-  
mons.

\* C. J., i. 340.

CH. VI.

1607.

would dismiss them. But, notwithstanding their promises, albeit they found no Turks' nor Jews' goods, they then alleged against them that their ship was a ship of war,\* and that they had taken from a Frenchman a piece of ordnance, a sail, and a hawser.' The Englishmen endeavoured to prove that the ship was a peaceable merchantman; but in spite of all that they could say, the Spaniard 'commanded the purser to be put to the torture, and hanged him up by the arms upon the ship's deck, and, the more to increase his torture,' they hung heavy weights to his heels; 'nevertheless he endured the torture the full time, and confessed no otherwise than truth. So then they put him the second time to torture again, and hanged him up, as aforesaid; and, to add more torment, they tied a live goat to the rope, which, with her struggling did, in most grievous manner, increase his torment, all which the full time he endured. The third time, with greater fury, they brought him to the same torment again, at which time, by violence, they brake his arms, so as they could torment him no longer, nevertheless he confessed no otherwise but the truth of their merchants' voyage. All which, with many other cruelties, being by our mariners at sea endured for the space of two months, all which time they enforced ship and men to serve them to take Turks, as they pretended.' They were at last sent to Messina, where the officers were put in prison, and the remainder of the crew were sent to the galleys, 'where they endured more miseries than before, insomuch as few or none of them but had the hair of their head and faces fallen away; and in this misery, either by torment, straitness of prison, or other cruel usage, in a short time the master, merchant, and purser died, and to their deaths never confessed other but the truth; and, being dead, they would afford them none other burial but in the fields and sea-sands. All of our men being wasted, saving four,† they were only left there in prison and galleys, and these, through their miseries, very weak and sick. One of them, called Ralph Boord, was twice tormented, and had given him a hundred bastinadoes to enforce him to confess, and for

\* i.e. a pirate.

† There were eighteen originally.

not saying as they would have him, was committed to a wet vault where he saw no light, and lay upon the moist earth, feasted with bread and water, for eight days, and being then demanded if he would not confess otherwise than before, he replied he had already told them the truth, and would not say otherwise; whereupon they took from him his allowance of bread, and for seven days gave him no sustenance at all, so that he was constrained to eat orange-peels which other prisoners had left there, which stunk, and were like dirt, and at seven days' end could have eaten his own flesh; and the fifteenth day the gaoler came unto him, and not finding him dead, said he would fetch him wine and bread to comfort him, and so gave him some wine and two loaves of bread, which he did eat, and within a little while after, all his hair fell off his head; and, the day after, a malefactor for clipping of money was put into the same vault, who, seeing what case his fellow-prisoner was in, gave him some of his oil he had for his candle to drink, by which means . . . his life was preserved.'

CH. VI.

1807.

At last the four who were left alive acknowledged that they had robbed the French ship of the piece of ordnance and the other articles, which had in reality belonged to the ship when she sailed from England.

The indignation felt by the House of Commons at such a tale as this may easily be conceived. They took the matter up warmly. This case of the Trial was only one out of many others. The Vineyard had been seized under pretence that she was carrying ammunition to the Turks. It was said that, besides the hardships inflicted upon the crews, English merchants had been unfairly deprived of no less a sum than £200,000.\* But it was more easy to feel irritation at such proceedings than to devise a remedy. Even the merchants themselves did not dare to advise an immediate declaration of war. Merchant vessels went far more at their own risk in those days than they do now. That the nation should engage in war for the sake of a few traders was not to be thought of. The Government did its part if it

The Commons forward the petition to the Lords.

\* C. J., i. 373.

CH. VI. remonstrated by means of its ambassadors, and used  
1607. all its influence to obtain justice.

Still, the merchants were not content that the matter should rest here. They had discovered an old statute authorizing the issue of letters of marque, upon the receipt of which the aggrieved persons might make reprisals upon the goods of the nation which had inflicted the wrong. They requested that such letters might now be issued, and their request was forwarded to the House of Lords by the Commons.

Salisbury advises delay,

On the 15th of June\* a conference was held between the two Houses. Salisbury told the Commons that peace and war must be determined by the general necessities of the kingdom. He reminded them that it was at their request that the late Spanish Company had been abolished, and that the merchants were now suffering from the loss of the protection which they had derived from it. It was notorious that it was difficult to obtain justice in Spain, and those who traded there must not expect to fare better than the inhabitants of the country. In reviewing the particulars of their petition, he told them that each merchant must carry on trade with the Indies at his own risk. With respect to the other complaints, the Spanish Government had given assurance that justice should be done; he therefore thought it better to wait a little longer before taking any decided step. He was able, without difficulty, to point out the extreme inconveniences of the issue of letters of marque. It would be immediately followed by a confiscation of all English property in Spain, the value of which would far exceed that of the few Spanish prizes which they could hope to seize.

and argues that questions of war and peace are to be determined by the Crown.

He then turned to argue another question with the Commons. He maintained that the determination of war and peace was a prerogative of the Crown, with which the Lower House was not entitled to meddle. This assertion he supported by a long series of precedents† from the times of the Plantagenets. It had often happened

\* The speeches of Salisbury and Northampton are reported in Bacon's Works (ed. Montagu), v. 205.

† Hallam, *Middle Ages* (1853), iii. 52.

CH. VI.  
1807.

that the Commons, from anxiety to escape a demand for subsidies, had excused themselves from giving an opinion on the advisability of beginning or continuing a war. He argued that when the opinion of Parliament had really been given, it was 'when the King and Council conceived that either it was material to have some declaration of the zeal and affection of the people, or else when the King needed to demand moneys and aids for the charge of the wars.' His strongest argument was derived from the difficulty which the House must feel in doing justice upon such matters. After all they could only hear one side of the question. It never occurred to him that it was possible to afford the members an opportunity for the formation of a more correct judgment by laying the diplomatic correspondence of the Government upon the table of the House. Such a suggestion, if anyone had dared to make it, would have run counter to all the constitutional theories of the day. The Commons had themselves felt the difficulty. 'For their part,' they had said a few days before,\* 'they can make no perfect judgment of the matter, because they have no power to call the other party, and that therefore they think it more proper for their Lordships, and do refer it to them.' In fact, negotiations with foreign powers must always be left in the hands of the Government, or of some other select body of men. The remedy for the evil, which was plainly felt, lay rather in the general control of Parliament over the Government than in any direct interference with it in the execution of its proper functions. Salisbury concluded by assuring the Commons that no stone should be left unturned to obtain redress, and by a declaration that if, contrary to his expectation, that redress were still refused, the King would be ready 'upon just provocation to enter into an honourable war.'

Salisbury was followed by Northampton, in a speech which hardly any other man in England would have allowed himself to utter. In him were combined the superciliousness of a courtier with the haughtiness of a member of the old nobility. He treated the Commons

Speech of  
Northampton.

\* C. J., i. 381.

CH. VI.  
1607.

as if they were the dust beneath his feet. He told them that their members were only intended to express the wants of the counties and boroughs for which they sat, and that thus having 'only a private and local wisdom,' they were 'not fit to examine or determine secrets of' State. The King alone could decide upon such questions, and it was more likely that he would grant their desires if they refrained from petitioning him, as he would prefer that he should be acknowledged to be the fountain from which all acceptable actions arose. After advising them to imitate Joab, 'who, lying at the siege of Rabbah, and finding it could not hold out, writ to David to come and take the honour of taking the town,' he concluded by assuring them that the Government would not be forgetful of the cause of the merchants.

The Commons give way.

However insulting these remarks of Northampton were, the Commons had nothing to do but to give way before Salisbury's cooler and more courteous reasoning. They had no feasible plan to propose on their own part, and it was certainly advisable to attempt all means of obtaining redress before engaging in a war of such difficulty and danger. At Madrid, Cornwallis did what he could. He frequently succeeded in obtaining the freedom of men who were unjustly imprisoned,\* but the difficulties and delays of Spanish courts were almost insuperable. In cases where there was a direct breach of treaty, a threat of war would probably have expedited their proceedings; but there was an evident disinclination on the part of the English Government to engage in a hazardous contest for the sake of a few merchants. It was some time before English statesmen were able to recognise the value of the interests involved in commerce, or were entrusted with a force sufficient to give it that protection which it deserves.

Cessation of hostilities in the Netherlands.

Whilst these questions were still pending, news arrived which caused great astonishment in England. On the 31st of March an agreement† had been signed between the States of the United Provinces and the Archduke,

\* *Wint.* ii. 320, 338, 360, 367, 391, 410, 439; iii. 16.

† Agreement, <sup>March 31,</sup> April 10, 1607, *S. P. Holland.*

arranging for a cessation of hostilities, with a view to the opening of negotiations for peace. During the last two years the Dutch had learnt a lesson. In 1604 they had been able to set the capture of Sluys against the loss of Ostend; but in the two following years they had been pressed back step by step, by Spinola, upon their eastern frontier. It was already becoming doubtful whether it would not be wiser to obtain peace upon honourable terms, than to set no limits to the war short of the acquisition of the whole of the Spanish Netherlands. Barneveldt, at least, and the large party which looked up to his guidance, had changed their views since they had steadily refused to take part with England in the treaty of 1604. On the other hand, Maurice, at the head of the army, and a great part of the population of Holland and Zeeland, who were making their fortunes at sea, were still desirous of continuing the war upon any terms.

The Archduke, on his part, had long been sighing for an opportunity of peace to repair the ravages of war in his wasted dominions. Nor was the King of Spain himself now inclined to resist. The capture of a few towns in Guelderland and Overijssel could not make amends for the drain upon his impoverished exchequer. Every month it was becoming more and more impossible to find money to pay the troops in the Netherlands, and at any moment the ablest combinations of Spinola might be frustrated by a mutiny of the army. At sea, the Dutch were completely masters, and the once powerful monarchy of Spain was trembling for her communications with the Indies.

The reception which the news of the cessation of hostilities met with in England was not creditable either to Salisbury or to James. Both the King and his minister were indeed anxious for the success of the States; but they looked with indifference upon the expenditure of blood and treasure by which alone success could be obtained. Whilst the English people thought only of the welfare of their brethren in the Netherlands, and of the great cause in which they were contending, the Government was too much inclined to think only of the

CH. VI.  
1607.

interests of their own country. Elizabeth had defended the cause of Protestantism on the Continent simply because in doing so she was fighting the battle of England, and it was inevitable that the school of foreign policy which she founded should partake in some measure of the character of national selfishness. Salisbury, like Elizabeth, was anxious to join the ranks of those who resisted the common enemy; but he did so, not because Spain was the oppressor of Europe, but because he feared lest the results of its success in oppressing Europe might lead to the downfall of England. Hence it was that men who would have offered their lives rather than be knowingly guilty of actions which were injurious to their country, easily forgot that in their intercourse with foreign nations honesty would be the best policy, whenever they fancied that the interests of England would be advanced by a violation of the ordinary rules of morality.

Salisbury's  
opinions  
on the ne-  
gotiations.

But besides his hesitation to accept a change which would leave the Spanish forces free to attack England, Salisbury undoubtedly believed that the cessation of war would be injurious to the States themselves. Like Burke in 1793, he imagined that the encroachment of foreign intrigues could be kept at bay by war alone. He feared lest the edifice of Government, which had been so laboriously reared out of such discordant materials, would fall to pieces as soon as Spanish agents were allowed free access to the discontented.\* Nor were English statesmen alone in wishing for the continuance of the war as a means of occupying the forces of Spain. The French King was of exactly the same opinion.† But he was too sharpsighted not to see how necessary peace was to the States, and he honourably dropped all intention of exciting them to continue the war. The English Government, on the other hand, were for some time unable to lose sight of the hope that the negotiations might prove

\* This double feeling is naïvely expressed in a letter of Winwood and Spenser to Salisbury: 'We know how necessary the continuance of the war would be to the safety of the Provinces if means might be found to maintain it, and how convenient this war would be for the good of His Majesty's realms, if it might be maintained without his charge,' Nov. 22, 1607, *S. P. Holland*.

† Jeannin to the King of France, May 18, 1607; Jeannin, *Negotiations*, (1656).



abortive. In the instructions\* given to Sir Ralph Winwood and Sir Richard Spenser, who were appointed as the representatives of England at the conferences which were expected to open at the Hague, care was taken to impress upon them that, although they were not to put themselves forward as opposers of the peace, they were yet to encourage the States to renew the war, if they should find them desirous to pursue such a course.

CH. VI.  
1607.

The conferences were delayed till the 27th of January in the following year, in consequence of the difficulty of inducing Spain to recognise the Provinces as free and independent States. Whilst these delays were rendering the ultimate issue of the negotiations doubtful, the States were pressing England and France to enter into an engagement to succour them in case of the failure of their efforts to obtain peace, or, at least, to guarantee the future treaty with Spain. Jeannin, the able diplomatist who was employed by the King of France to watch the negotiation, waited upon the English Commissioners, and told them that he had orders to promote a peace, unless England would join with France in supporting war. He therefore wished to know what course their Government would take.† The memorial which Salisbury laid before the King on this occasion is one of the most lamentable State Papers ever presented to an English Sovereign. It was precisely one of those occasions when Salisbury's want of genius made itself felt. He had not strength of mind to throw himself out of the path of the old policy, which advocated the stirring up of opposition to Spain on the Continent, without much regard to the interests of those who were thrust into the front of the battle; and yet his common sense told him that that policy was for the present impossible. It was not that he advocated a line of action which was injurious or unworthy; the misfortune was, that at a moment when England might have placed herself by the side of France, at the head of all that was best and healthiest in Europe,

1608.  
The States  
demand a  
guarantee.

Nov. 24,  
1607.

Salisbury's  
memorial.

\* *Winn.* ii. 329.

† Commissioners to Salisbury, Nov. 29, 1607, *S. P. Holland.*

CH. VI.  
1607.

Salisbury was unable to recommend any definite line of action at all. He did not see that, even if it was fitting that England should not be dragged into a war, it was at least the duty of the Government to allow the voice of England to be heard on the side of justice. It was undoubtedly wise not to entangle himself in a treaty such as the States proposed, which, by promising support in the case of a breach of the negotiations, might encourage them to put forward exorbitant pretensions. But it was certainly incumbent upon him to insist that if the English Commissioners were to remain at the Hague, they should be directed to support all reasonable proposals for peace. Instead of this, he recommended that, whenever important propositions were made, they should confine themselves to stating the advantages on both sides, and that, above all things, they were to take care not to employ too much industry in forwarding the peace. With respect to the guarantee demanded for the maintenance of the peace, when once it was concluded, something must be done. If there was one contingency against which English statesmen had long been anxious to provide, it was the occupation of the Spanish Netherlands by France. It was obvious that, if England refused to take part in the guarantee required, the States would at once be thrown into the arms of the King of France, who would certainly use their alliance as a means towards the extension of his Northern frontier. Salisbury was therefore obliged to recommend that the guarantee should be granted, but he advised that it should be kept altogether separate from the similar engagement which the French Commissioners were prepared to enter into.\*

England  
and France  
agree to  
guarantee  
the peace  
if it should  
be con-  
cluded.

These recommendations were endorsed by James. Even after the refusal of the English Commissioners to join the French in their guarantee, it was desirable that, at least, the two documents should be signed on the same day, in order that England and France might show a common front against Spain. But here a difficulty occurred. The English Commissioners required that,

\* Memorial. Undated, *S. P. Hol.*

before they signed, an acknowledgment should be given them of the debt which the States owed to the King of England, and as differences existed both as to the amount of the debt and as to the time when it was to be paid, they declined to join the French.\* Several compromises were proposed in vain, and on the 15th of January the French signed alone. The English treaty lingered on for some months before its terms were finally agreed upon.

CH. VI.  
1608.

The news of these differences between the mediating powers must have gladdened the hearts of the Spanish Commissioners, who arrived shortly after the signature of the French treaty. Within a few days after the opening of the conferences, the Spaniards had announced, to the astonishment of all, that their master was ready to agree to the complete renunciation of all sovereignty over the United Provinces, on the part either of the Archduke or of the King of Spain. It was less easy to come to terms on the question of the right of navigation to the Indies. The States offered to leave the question undecided, as it had been left in the treaty with England; but that which Spain had granted to an independent sovereign she hesitated to yield to subjects who had so lately escaped from her dominion. The Spaniards offered to leave the traffic open for a few years, if the States would promise to bind themselves to prohibit their subjects from engaging for a longer period in that trade. At last, after several counter-propositions had been made, it was agreed that the Dutch should be allowed to trade for nine years to those parts of the Indies which were not in the actual occupation of Spain, upon the understanding that before the expiration of that period, negotiations should be entered into for the definite settlement of the question. On the 21st of March, the conferences were adjourned, in order that one of the Spanish Commissioners might return to Madrid, for the purpose of obtaining the approval of the King.†

Opening of  
the con-  
ferences.

Terms  
agreed to  
by the  
Commis-  
sioners.

\* Commissioners to the Council, Jan. 6, 1608, *S. P. Holland*. Jeannin and Russey to the King of France, Jan. 15, 1608, Jeanin, *Negotiations*.

† Meteren,

## CH. VI.

1608.

League between  
England and the  
States.

At last, upon the 16th of June, the league between England and the States was signed.\* James promised that, if the peace which was likely to be concluded should be broken by Spain, he would send to the defence of the Republic six thousand foot and six hundred horse, besides a fleet of twenty ships. If he were attacked, they were to send to his assistance a similar number of ships, but a land force of four thousand foot and three hundred horse would be sufficient. In a separate agreement,† the States acknowledged a debt of £818,408. Nothing was, however, to be required of them till two years after the conclusion of peace with Spain. The repayment was then to be commenced by half-yearly instalments of £30,000, an amount which was afterwards reduced to £20,000.

The King  
of Spain  
refuses to  
agree to  
the terms  
proposed.

The King of Spain kept the States in suspense during the whole of the summer. He had great difficulty in bringing himself to consent to the proposals to which his representatives had agreed. If he refused to give way, there were still many chances in his favour. Of the United Provinces, only two were engaged in commerce. The other five were particularly exposed to the ravages of the contending armies. It might, therefore, be reasonably supposed that they would be unwilling to renew the war for the sake of the trade with the Indies. England was known to be lukewarm, and hopes were at this time entertained of detaching France from an alliance with the States. If the ambassador who had been sent from Spain on a special mission to Paris had failed in influencing the King himself, he was able to report that, in his foreign policy, Henry stood almost alone in his own court. His health was not such as to promise a long life, even if he escaped the danger of assassination with which he had been so often threatened. Upon his death, an infant would be upon the throne, and the government would fall into the hands of the Queen, whose sympathies were altogether on the side of Spain.

Encouraged by these considerations, he directed his Commissioners at the Hague to refuse to agree to the treaty, unless the States would renounce the trade with

\* *Rymer*, xvi. 667.

† *Rymer*, xvi. 673.

the Indies, and would engage to tolerate the Roman Catholic religion. These proposals were at once rejected. The English and French Commissioners, seeing that the two parties were not likely to come to an agreement, proposed that a long truce should be substituted for the peace. The Provinces were to be acknowledged as an independent State, and the trade with the Indies was to be thrown open to them as long as the truce lasted. This arrangement was accepted in principle; but even then it was difficult to draw it up in terms which would be satisfactory to both the contracting Powers. The States demanded that their absolute independence should be acknowledged. The Spaniards thought that enough was conceded if they consented to treat with them as an independent State for the time being, so as to have it in their power to reassert their claims upon the resumption of hostilities.

CH. VI.  
1608.  
Proposal  
of a truce.

Neither party would give way. On the 20th of September, the Spanish and Flemish Commissioners broke up the conferences and returned to Brussels, giving it to be understood that if the States were willing to renew the negotiations, no difficulty would be thrown in their way.

The conferences  
are broken  
up.

It was not without considerable labour that Jeannin succeeded in bringing the negotiators together again. The English Commissioners were now content to follow the lead of the French Government. The superiority of the French was not so much owing to the ability of their negotiators, as to the readiness with which they had cast away all selfish motives, and had thrown themselves heartily into the work of obtaining the best terms possible for the States.\*

At last, the conferences were resumed at Antwerp, where, on the 30th of March, 1609,† a truce was signed for twelve years. The States contented themselves with a general recognition of their independence. The King of Spain, though he reserved a right to prohibit

The truce  
signed at  
Antwerp.

\* It was said, however, that they were not eager to obtain a concession for the Dutch to trade with the Indies, as they were afraid of competition with their own merchants.

† April, <sup>March 20.</sup>  
April 6.

CH. VI.  
1609.

traffic with his own territories in the Indies, yet declared that he would throw no impediment in the way of the trade of the Dutch with any of the native States beyond the limits of the Spanish possessions. This was the greatest concession which had yet been wrung from Spain.

The position of England, at the conclusion of the truce, was no doubt inferior to that which she might have occupied, if Salisbury had at once entered upon a bolder policy. Still, at the end of the negotiations, she was found in her right place. She had joined with France in guaranteeing the States against any attempt on the part of Spain to infringe the articles of the truce. There can be no doubt that, in the course he had finally taken, Salisbury was acting wisely. If France and England had been faithful to the policy which they now adopted, and had continued to present a bold front to the aggression of Spain and its allies, the storm which was even then hanging over central Europe might have been permanently averted.

Feelings of  
Spain with  
regard to  
English  
colonies in  
America.

It was not the renunciation of sovereignty over the United Provinces which caused most distress to the minds of the members of the Spanish Government. Cornwallis found that, whilst they were ready to converse with him upon all other points, there was one subject which they resolutely avoided, as if it had been too painful to be mentioned. They looked with the deepest anxiety upon the attempt which was being made by a handful of Englishmen to establish a colony upon the coasts of North America. Spain knew well that if this attempt were crowned with success, her hopes of maintaining in her hands the exclusive supremacy over the New World would be at an end. France, indeed, had, in 1604, planted a colony upon the shores of Nova Scotia, but Nova Scotia was too far to the north to give rise to any serious apprehension. A settlement in Virginia would threaten the latest acquisition of the Spaniards in Florida, and would prove an acceptable support to the daring adventurers who carried on trade and piracy against the will of Spain in the West Indian seas.

Raleigh's  
colony.

The idea of colonising Virginia owed its origin to the

fertile brain of Raleigh. Under his auspices a little company had been actually landed, and had subsisted for some time. But the vessels which had been sent to relieve them failed in their object, either from accident or negligence. The colony was lost sight of, and when the next vessel appeared to bring help, not a trace of it could be found.

In 1602 an attempt was made by Captain Bartholomew Gosnold to colonize new England, which was then known by the name of Northern Virginia. The enterprise failed, but Gosnold came back fully impressed with the idea of its feasibility. He succeeded in imparting his views to a little knot of men, among whom was the Richard Hakluyt who had devoted his life to the celebration of the deeds of maritime daring by which the last reign had been distinguished. It was of far more importance for the ultimate destinies of the colony that he succeeded in obtaining the cooperation of John Smith. Smith was still a young man, but he had gone through more hardships and adventures than had fallen to the lot of any other Englishman, even in that adventurous age. He had served in the Low Countries against the Spaniards, and in Hungary against the Turks. He had been thrown overboard in a storm in the Mediterranean, by the crew of a French ship in which he was, who imagined that the presence of a Huguenot on board had called down the vengeance of Heaven upon their vessel. He had been taken prisoner by the Turks, and had been sent to serve as a slave amongst the Tartars on the Don. But whatever might happen, he was always able to turn it to account. In the worst dangers, he always knew what was the right thing to be done. For such a scheme as that which Gosnold proposed, the presence of such a man was indispensable to success.\*

For a year, Gosnold and his friends were unable to find means to carry their plan into execution. They were, however, not alone in the hopes with which they were inspired. In 1605, a ship, commanded by Captain

CH. VI.

1584.

1602.

Gosnold's  
voyage to  
New  
England.Smith's  
adven-  
tures.Sir Fer-  
dinando  
Gorges.

\* *The Travels of Captain Smith.* On the general credibility of the narrative, see Palfrey, *Hist. of New England*, i. 89, note.

CH. VI.  
1606.

Weymouth, was fitted out by Lord Arundel and the Earl of Southampton. On his return Weymouth brought with him five natives of New England. Sir Ferdinando Gorges, who was Governor of Plymouth, fell in with him, and conversed with him on the countries which he had visited. He took three of the Indians into his house, and obtained every possible information from them. From that time he set his heart upon the colonisation of America. He acquainted Chief Justice Popham with his designs. Popham had always taken a deep interest in the mercantile and maritime enterprises of the time, and readily agreed to ask the King to grant a charter authorising the proposed undertaking. By some means or other, he became acquainted with Gosnold's desire to carry out a similar enterprise, and both schemes were comprehended in the charter which he obtained.

1606.  
The first  
Virginian  
charter.

That charter was dated the 10th of April, 1606.\* It declared that Virginia extended from the thirty-fourth to the forty-fifth degree of latitude, or, in other words, from what is now the southern boundary of the State of North Carolina to the shores of Nova Scotia. On this long line of coast two settlements were to be made.† Gorges and his friends from the West of England were to choose a place for a colony somewhere in the Northern part of the territory, whilst the London merchants and gentlemen who had listened to Gosnold's persuasion were to confine themselves to the South.

The in-  
structions  
for the  
colonists.

It was necessary to devise some form of government for the two colonies. The rock upon which all former attempts had split, was the difficulty of inducing the spirited adventurers who took part in them to submit to the control which was indispensable to success in such arduous undertakings. The crews of the vessels which had been sent out had been too often bent merely upon making their fortunes. The chance of capturing a Spanish prize had frequently lured them away from the object for which they were despatched, and had ruined the best concerted undertakings. The emigrants them-

\* Hening, *Statutes of Virginia*, i. 57.

† It is curious at the present time (1863) to note this intentional duality of the colony.



selves frequently went out with the idea that in America gold lay upon the ground in lumps; and when they discovered by a bitter experience the terrible hardships which awaited them on an uncultivated shore, amidst hostile tribes, their hearts too often gave way at once, and they thought of nothing but the easiest way to return.

In the hope of providing some authority which might prevent the recurrence of these disasters,\* a machinery was introduced, which was far too complicated to work successfully. By the side of the company itself, upon which the burden rested of supporting the colonists, and which was to be in exclusive possession of the trade which might spring up in consequence of their settlement, a council was erected in London, the members of which were nominated by the King. This council was entrusted with the general supervision of the colonies. By it were to be appointed the first members of the two colonial councils, and their presidents, to whom was assigned a casting vote in their deliberations. In each colony the really important part of the machinery of government was in the hands of these local councils. They were empowered, after the expiration of the first year, to elect the annual president, and they were to depose him in case of his misconduct. They might fill up all vacancies occurring in their own body, and the whole of the administrative and judicial authority was assigned to them, without any check or control whatever, beyond the necessity—to be interpreted by themselves—of conforming, as closely as was possible under the circumstances, to the laws of England. The criminal law was, however, to be milder than it was at home, as the punishment of death was to be reserved for certain specified crimes of peculiar enormity. On the other hand, it was only in these special cases that a jury was to be allowed to pronounce its verdict, in all others the sentence of the council would be sufficient. Power was reserved to the King to veto the legislation of the councils, and to overrule it by the issue of regulations in England.

\* Instructions, Nov. 20, 1606, Hening, i. 67.

CH. VI.

1606.

American writers have, with one accord, cried out against these instructions, on the ground that they contain no grant or acknowledgment of representative institutions.\* This complaint, which would have been valid enough if it had only referred to a colony which had once been completely settled, is founded upon a forgetfulness of the difficulties which beset an infant settlement at the commencement of the seventeenth century. The only chance of success for such a colony lay in the introduction of some strong rule by which a check might be put upon the independent action of the settlers. Immediately upon landing, they occupied the position of a garrison in a hostile territory. The folly of a few wild spirits might compromise the safety of the whole community, and it was but seldom that the adventurers of whom it was composed were distinguished either for prudence or self-restraint. In their dealings with the Indians, the utmost foresight was needed. By provoking the native tribes, a danger of hostilities was incurred which might end in sweeping the infant colony into the sea. What was, in reality, the first necessity of the settlement, was not a parliament to discuss laws and regulations, but a governor of sufficient ability to know what ought to be done, and of sufficient authority to persuade or compel the most refractory to yield obedience to his commands.

Failure of  
the  
Northern  
Colony.

From the want of such a man, the Northern Colony proved a total failure. It was under very different auspices that, after a delay of many years, a permanent settlement was made upon the shores of New England. If the Southern Colony proved more successful, it was in spite of the elaborate arrangements which James had made for its guidance.

The  
Southern  
Colony.

On the 19th of December, 1606, the little company who were destined to succeed where so many had failed, sailed from the Thames in three small vessels.† They were in all a hundred and five. The vessels were commanded by Captain Newport. It was arranged that the

\* Smith's *Hist. of Virginia*, 1747, 41. Bancroft, *Hist. of America*, i. 121.

† Purchas, iv. 1683—1733. Smith's *Hist. of Virginia*, 41.

names of the colonial council should not be known until the arrival of the expedition in America. This precaution had probably been taken to prevent any collision between Newport and the colonial authorities. It was, however, attended with unforeseen results. The chief persons who had engaged in the undertaking were jealous of the abilities of Smith, and absurd rumours were spread among them that he intended to make himself King of Virginia. They, therefore, resolved upon anticipating his supposed design by placing him in confinement; and they conducted across the Atlantic as a prisoner the man to whom the whole conduct of the enterprise ought to have been confided.

CH. VI.  
1608.

After a tedious voyage, the expedition arrived at the mouth of the Chesapeake. They gave to the headlands between which they sailed the names of Cape Henry and Cape Charles, in honour of the two English princes. As soon as they had landed, they opened their instructions, and found that seven of their number had been appointed to form the council, and that both Smith and Gosnold were included in the number. After some hesitation, they selected a site upon a stream to which they gave the name of the James River, upon which they proceeded to build the town which is known as Jamestown to this day. The first act of the council was to nominate Wingfield, one of the earlier promoters of the expedition, to the presidency, and to expel Smith from their body. It was not till some weeks had passed that they were persuaded to allow him to take his seat.

1607.  
They arrive in the Chesapeake.

In June Newport returned to England with the vessels. As soon as he had left them the troubles of the colonists began. They had arrived in America too late in the season to allow them to sow the seed which they had brought with them with any hope of obtaining a crop. The food which was left behind for their support was bad in quality, and the hot weather brought disease with it. Nearly fifty of their number were gentlemen, who had never been accustomed to manual labour. Half of the little company were swept away before the beginning of September. Amongst those who perished was Gosnold, whose energetic disposition might, perhaps, if he had

Difficulties of the settlers.

CH. VI.

1607.

survived, have done good service to the colony. To make matters worse, the president was inefficient and selfish, and cared little about the welfare of his comrades, if he only had food enough for himself. The council deposed him; but his successor, Ratcliffe, was equally incompetent, and it was only by the unexpected kindness of the natives that the colonists were enabled to maintain their existence. As the winter approached, their stock was increased by large numbers of wild fowl which came within their reach. In spite, however, of this change in their circumstances, it was only by Smith's energetic behaviour that they were prevented from abandoning the colony and returning to England.

Smith  
taken pri-  
soner by  
the In-  
dians.

During the winter Smith employed himself in exploring the country. In one of his expeditions he was taken prisoner by the Indians. Any other man would have been instantly massacred. With great presence of mind, he took a compass out of his pocket and began talking to them about its wonders. Upon this, the chief forbade them to do him any harm, and ordered him to be carried to their village.

Whilst he was there he still more astonished his captors by sending a party of them with a letter to Jamestown. They were unable to comprehend how his wishes could be conveyed by means of a piece of paper. At last he was conducted before Powhattan, who was the superior chief over all the tribes of that part of the country. After a long consultation, it was determined to put him to death. He was dragged forward, and his head was laid upon a large stone, upon which the Indians were preparing to beat out his brains with their clubs. Even then his good fortune did not desert him. The chief's daughter, Pocahontas, a young girl of ten or twelve years of age, rushed forward, and, taking him in her arms, laid her head upon his, to shield it from the clubs. The chief gave way before the entreaties of his daughter, and allowed him full liberty to return to Jamestown.

He is set  
at liberty.

On his arrival there he found all things in confusion. The president had again formed the intention of abandoning the colony, and was only deterred once more by the energetic exertions of Smith. The colonists were

also indebted to him for the liberal supplies of provisions which were from time to time brought to them by Poca-hontas. CH. VI.  
1808.

He had not been long at liberty, when Newport arrived with a fresh supply of provisions. He also brought with him about a hundred and twenty men, the greater part of whom were bent upon digging for gold. Smith applied himself to the more profitable undertaking of carrying his explorations over the whole of the surrounding country. The gold-diggers did not add anything to the stock of the community; and it was only by the arrival of another ship that the colonists were enabled during the summer of 1608 to avoid absolute starvation. Some little corn had, however, been sown in the spring, and it was hoped that, with the help of what they could obtain from the natives, there would be sufficient provision for the winter. Newport's  
return.

Shortly after Newport had again left the colony, Smith returned from one of his exploring expeditions. He found the whole colony dissatisfied with the conduct of the incapable president, who, with the exception of Smith, was the only member of the original council still remaining in Virginia. A third member had, however, been sent out from England. This man, whose name was Scrivener, had attached himself warmly to Smith, and, to the general satisfaction of the settlers, the two friends deposed Ratcliffe, and appointed Smith to fill his place. Smith  
elected  
president.

Smith had not long been president, when Newport again arrived. The company in England were anxious to see a return for the capital which they had expended. They pressed Smith to send them gold, and threatened to leave the colony to starve, if their wishes were not complied with. The only conditions on which he was to be excused, were the discovery of a passage into the Pacific, or of the lost colony which had been founded by Raleigh. They sent him seventy more men, of whom, as usual, the greater number were gentlemen. They expected him to send them home in return, pitch, tar, soap-ashes, and glass. To assist him in this, they put on board eight Poles and Dutchmen, who were skilled in such manufactures.

## CH. VI.

1608.

He at once wrote home to the treasurer of the company, Sir Thomas Smith, explaining to him the absurdity of these demands. The colonists, he told him, must be able to feed themselves, before they could establish manufactures. If any more men were sent out, 'but thirty carpenters, husbandmen, gardeners, fishermen, blacksmiths, masons, and diggers-up of trees' and 'roots,' would be better 'than a thousand of such' as had lately arrived.

Under Smith's rule the settlement passed safely through another winter. The Indians were compelled to respect the rising colony. The greater part of the gentlemen were induced to work heartily, and those who refused were plainly told that if they would not do the work they would be left to starve. It appeared as if, at last, the worst difficulties had been overcome.

1609.

The new  
charter.

The summer of 1609 was drawing to a close, when news arrived in Virginia that a fresh charter had been granted, by which considerable changes were authorised in the government of the colony. The working of the original arrangements had been, in many respects, unsatisfactory. The council at home, which had been enlarged in 1607,\* had found but little to do, as all practical business connected with the support of the colony was in the hands of the company. The company itself had proved but ill-fitted to devise the best measures for the maintenance of the settlers. Its members had been too anxious for a quick return for the money which they had laid out, and had been too eager to press the colonists to engage in trade before they had brought under cultivation a sufficient quantity of land for their own support. On the other hand, nothing could be more unsatisfactory than the accounts which they received of the proceedings of the colonial council. It was certain that the whole attempt would prove a failure, if the settlement were allowed to be distracted by the disputes and follies of the members of the local government. When the last news was brought to England in 1608, Smith had but just entered upon his office; and

\* Ordinance in Hening, *Statutes of Virginia*, i. 76.

even if the good effects of the change had already begun to appear, the company was not likely to receive any information which would give them an idea of the value of his services. Those who returned in the vessels which had left Virginia in the autumn were the declared enemies of the new president. Newport especially, who commanded the expedition, had been too often made to feel the superior ability of Smith, to be likely to speak many words in his favour.

CH. VI.  
1609.

The company, therefore, in asking for a change in its original charter, was acting in ignorance of the improved state of things in Virginia. The alterations made were, on the whole, calculated to benefit the colony.\* In the first place, an end was put to the double government. The council was from henceforth to take charge as well of the commercial as of the political interests of the colony. Though the first appointments were to be made by the King, vacancies, as they occurred, were to be filled up by the company. Care was taken, that of the fifty-two persons who were named to take their seats in the new council, but a very small number should be engaged in commerce. For some years to come, the arrangement of the intercourse which was to be kept up between Virginia and the mother country would no longer be in the hands of men who were liable to look upon the whole affair as a mere commercial speculation. There would, therefore, be some chance that the necessities of the colonists would be regarded, as well as the pockets of the subscribers. At all events, as long as such men as Sandys and Bacon took part in the deliberations of the council, the colonists were not likely to be again urged to search for gold, under the threat that, if they failed, they would be cut off from all further assistance from England.

It was no less necessary to carry out a thorough reform in Virginia itself. The first thing to be done was to sweep away the colonial council, with its annual presidents. Even had the home government known what was passing in the colony, they could hardly have come

Change in  
the system of go-  
vernment  
in the  
colony.

\* Second charter, Hening's *Statutes of Virginia*, i. 80.

CH. VI.  
1600.

to any other conclusion. The accident which had brought about the election of Smith might never again occur, and even during his year of office the council, if its vacancies were filled up, would be rather an obstruction than an assistance to him. By the new charter, the council in Virginia was deservedly swept away, and the council in London received full powers to appoint all officers who were needed for the government of the colony.

Appoint-  
ment of  
Lord De  
la Warr as  
Governor.

Undoubtedly, the best thing which the new council could have done would have been to have placed Smith at the head of the settlement. But, being ignorant of his true value, they took the next best step in their power. The government of merchants and captains had proved only another name for organized disorder. They, therefore, determined to try the experiment of sending out persons whose rank had made them accustomed to command, and who, if they were under the disadvantage of being new to colonial life, might be supposed to be able to obtain respect from the factions by which the colony was distracted. It was also plain that the settlement must be regarded, at least for the present, as a garrison in a hostile country, and that the new government must be empowered to exercise military discipline. The selections made were undoubtedly good. Lord De la Warr, an able and conscientious man, was to preside under the name of General; Sir Thomas Gates, one of the oldest promoters of the undertaking, was to act as his Lieutenant; Sir George Somers was to command the vessels of the company as Admiral; Sir Thomas Dale, an old soldier from the Low Country wars was to keep up discipline as Marshal; whilst Sir Ferdinando Wainman was invested with the rather unnecessary title of General of the Horse. Lord De la Warr was to be preceded by Gates, Somers, and Newport, who were jointly to administer the government till the appearance of the General himself.

The whole scheme was well contrived, and if it had been carried out according to the intentions of the council all would have gone well. In May, nine ships sailed with five hundred fresh men to recruit the colony,



and with large stores of provisions.\* Unfortunately, the ship which contained the three commissioners was wrecked on the Bermudas, and the remaining vessels, with the exception of one which perished at sea, arrived in the Chesapeake with the information that Smith's authority was at an end, but without bringing any new officers to fill his place. To make matters worse, the men who arrived were chiefly a loose and disorderly mob, who had been chosen without any special regard for the requirements of an emigrant's life, and with them were several of Smith's old opponents, who had previously returned to England.

CH. VI.  
1609.

Shipwreck  
of the com-  
missioners.

Smith, seeing that no lawful authority had come to replace his own, determined to maintain himself in his post. The new-comers raised unlooked-for difficulties. They not only showed great disinclination to submit to his orders, but they set at naught all the ordinary rules of prudence in their intercourse with the natives. The Indians came to Smith with complaints that his men were stealing their corn and robbing their gardens. He was doing his best to introduce order again amongst these miserable men, when an accident deprived the colony of his services. Some gunpowder in a boat, in which he was, accidentally took fire, and the wounds which he received made it impossible for him to fulfil the active duties of his office. He accordingly determined to return to England, leaving the unruly crowd of settlers to discover by a bitter experience the value of his energy and prudence. They were not long in learning the extent of their capacity for self-government. They utterly refused to submit to Percy, who had been elected by the council as Smith's successor.† As soon as the natives heard that Smith was gone, they attacked the settlement, and met with but little resistance. The settlers themselves wasted the provisions which should have served for their subsistence during the winter. There was no recognised authority, and every man followed his own inclination. When Smith sailed for

Smith re-  
turns to  
England.

\* Compare Purchas, iv. 1733, with Smith.

† 'They persuaded Master Percy to stay . . . and be their president' (Smith, 93), must mean that the council persuaded him.

## CH. VI.

1610.

Wretched  
state of the  
colony.Arrival of  
Gates.

England the colony consisted of four hundred and ninety men. Within six months a miserable remnant of sixty persons was supporting itself upon roots and berries.

In this extremity, Gates\* arrived, having contrived to escape in a pinnace from the Bermudas. On the 23rd of May 1610 he landed at Jamestown. He had expected to find a flourishing colony, where he could obtain support for the hundred and fifty shipwrecked settlers who accompanied him. He found famine staring him in the face. The corn which had been sown would not be ready for harvest for months, and the Indians refused to bargain with their oppressors. When he had landed all his little store, he found that there would only be enough to support life for sixteen days. It was therefore determined by common consent to forsake the country as the only means to avoid starvation, and to make for Newfoundland, where the fugitives hoped to obtain a passage to England in the vessels which were engaged in fishing.

The colony  
saved by  
the arri-  
val of  
Lord De  
la Warr.

On the 7th of June the remnants of the once prosperous colony quitted the spot which had been for three years the centre of their hopes, and dropped down the river. Before, however, they had got out into the Chesapeake, they were astonished by the sight of a boat coming up to meet them. The boat proved to belong to Lord De la Warr's squadron, which had arrived from England in time to save the settlement from ruin.

The arrival of Lord De la Warr was the turning point in the early history of Virginia. He brought provisions upon which the settlers could subsist for a year, and by his authority he was able to curb the violence of the factions which had been with difficulty kept down even by the strong hand of Smith. Peace was restored with the Indians, and the colonists worked willingly under the governor's directions.

He had not been long in Virginia before ill health compelled him to return. After a short interval he was succeeded by Sir Thomas Dale. Dale introduced a

\* Purchas, iv. 1745.

code of martial law.\* This code was unjustifiably severe, but even that was better than the anarchy which threatened to break out again on Lord De la Warr's departure. A still more advantageous change was brought about under his government. Hitherto the land had been cultivated for the good of the whole colony, and it had been found difficult to make men work heartily who had no individual interests in their labours. Dale assigned three acres of land to each settler. The immediate results of this innovation were manifest. The improvement was still more decided when Gates, who had been sent back to England, returned as Governor, with large supplies, of which the most valuable part consisted of a number of cattle. This welcome assistance arrived in August, 1611. From that time it may be considered that the difficulties which impeded the formation of the settlement were at an end.

CH. VI.

1611.

Sir  
Thomas  
Dale's ad-  
ministra-  
tion.

\* 'For the Colony of Virginia Britannia, Lawes divine, morall, and martiall,' 1612.

## CHAPTER VII.

## THE PACIFICATION OF IRELAND.

## CH. VII.

The English Government anxious to maintain their authority in Ireland.

THE anxiety with which Spain regarded the progress of the colony in Virginia was only equalled by the anxiety with which the English Government regarded the possibility of a lodgment being effected on the coasts of Ireland by a Spanish force. It was well known in England, that if the war with Spain should ever be renewed, it was against Ireland that the enemy would be most likely to direct his attack.

The causes which had made the possession of Ireland a weakness rather than a strength to England were not of any recent growth. The whole history of the two countries had been so dissimilar, that it would have been strange if no disputes had arisen between them.

The Norman Conquest of Ireland

Both countries had submitted to a Norman Conquest, but the process by which England had been welded into a nation only served to perpetuate the distractions of Ireland. To the astonishment of their contemporaries, the great-grandchildren of the invaders sank, except in the immediate neighbourhood of Dublin, into the savage and barbarous habits of the natives. The disease under which England had suffered during the evil days of the reign of Stephen became the chronic disorder of Ireland. Every man whose wealth or influence was sufficient to attract around him a handful of armed men, was in possession of a power which knew no limits except in the superior strength of his neighbours. Every castle became a centre from whence murder, robbery, and disorder spread over the wretched country like a flood. Against these armed offenders no law was of any avail, for no

authority was in existence to put it in execution. In adopting the lawlessness of the natives, the descendants of the invaders also adopted their peculiarities in dress and manners. The English Government complained in vain of what they called the degeneracy of their countrymen. The causes of this degeneracy, which were so dark to them, are plain enough to us. Between the conquest of England and the conquest of Ireland there was nothing in common but the name. The army of William was obliged to maintain its organization after the conquest, as the only means by which the English nation could be kept in check; and in the Middle Ages organization and civilisation were identical. In Ireland no such necessity was felt. No Irish nation, in the proper sense of the word, was in existence. There were numerous septs which spoke a common language, and whose customs were similar; but they were bound together by no political tie sufficiently extensive to embrace the whole island, nor were they united by any feelings of patriotism. Each petty chief, with his little knot of armed followers, was ready enough to repel invasion from his own soil, but he was by no means eager to assist his neighbour against the common enemy. If he had any interest in the conflict at all, he would probably be not unwilling to see the chieftain of the rival sept humbled by the powerful strangers from England.

CH. VII.

differed  
from the  
Norman  
Conquest  
of Eng-  
land.

There was, therefore, amidst the general disunion of the Irish, no sufficient motive to induce the conquerors to maintain what organization they may have brought with them. No fear of any general rising urged them to cultivate the alliance of their countrymen. In some parts of the country, indeed, the native chieftains regained their ancient possessions. Such cases, however, were of merely local importance. A Fitzgerald or a Bourke did not feel himself less strong in his own castle because some inferior lord had lost his lands. On the other hand, if the O'Neill or the O'Donnell could hold his own at home, he did not trouble himself about the fate of the other septs of the neighbourhood. It mattered little to the unfortunate peasants, who tended their cattle over the bogs and mountains, from which race their oppressors

Causes of  
the de-  
generacy  
of the con-  
querors.

CH. VII. came. Everywhere bloodshed and confusion prevailed, with their usual attendants, misery and famine.

Want of a  
central go-  
vernment.

The only chance of introducing order into this chaos was the rise of a strong central government. But of this there did not seem to be even the most distant probability. The power of the Lord-Deputy was only sufficient to maintain order in the immediate vicinity of Dublin; and the King of England wanted both the will and the means to keep on foot, at the expense of the English nation, a force sufficiently large to overawe his disorderly subjects in Ireland. Occasionally a spasmodic effort was made to reduce Ireland to submission by an expedition, conducted either by the King in person, or by one of the Princes of the blood. But the effects of these attempts passed away as soon as the forces were withdrawn, and at last, when the war of the Roses broke out, they ceased altogether.

Measures  
to check  
the de-  
generacy  
of the Eng-  
lish in Ire-  
land.

Unfortunately, what efforts were made, were made altogether in the wrong direction. Instead of accepting the fact of the gradual assimilation which had been working itself out between the two races, the Government, in its dislike of the degeneracy of the descendants of the settlers, attempted to widen the breach between them and the native Irish. Statutes, happily inoperative, were passed, prohibiting persons of English descent from marrying Irish women, from wearing the Irish dress, and from adopting Irish customs. If such statutes had been in any degree successful, they would have created an aristocracy of race, which would have made it more impossible than ever to raise the whole body of the population from the position in which they were.

The  
second  
conquest  
of Ireland.

The only hope which remained for Ireland lay in the rough surgery of a second conquest. But for this conquest to be beneficial, it must proceed not from a new swarm of settlers, but from a government free from the passions of the colonists, and determined to enforce equal justice upon all its subjects alike. The danger which England incurred from foreign powers in consequence of the Reformation, compelled the English Government to turn its attention to Ireland. That Ireland should form an independent kingdom was

manifestly impossible. The only question was, whether it should be a dependency upon England or upon Spain. Happily for England, and in the end happily for Ireland too, the skill and courage of English statesmen and soldiers prevailed. But the struggle was terrible. For three-quarters of a century the English power held its course steadily and sternly on, sometimes giving way for a moment, but always regaining the ground which it had lost. In the main, the extension of the English power was also an extension of law and justice. English law courts, indeed, in the sixteenth century, frequently permitted themselves to give sentences which were far enough from being consonant with the rules of justice; but the most ignorant and capricious of English judges was a model of fairness in comparison with an Irish chief. English soldiers permitted themselves to make war in a manner which would now be scouted by all civilised nations; but it may fairly be questioned whether the mischief done by the English forces was greater than that which, without their exertions, would have continued to be the result of the prevailing anarchy.

Ireland was governed by a succession of officers whose term of office was never very long. As is generally the case under such circumstances, there were two distinct systems of government which were adopted in turn. One Lord-Deputy would attempt to rule the country through the existing authorities, whether of native or of English descent. Another would hope to establish the government on a broader basis by ignoring these authorities as far as possible, and by encouraging the independence of their followers. Sir William Fitzwilliams, who was appointed Deputy in 1586, made it the main object of his policy to depress the native chiefs. This was in itself by far the more promising policy of the two, but it required to be carried out with peculiar discretion, and, above all, it could only be successful in the hands of a man whose love of justice and fair dealing was above suspicion. Unfortunately this was not the case with the Deputy. He was guilty of the basest perfidy in seizing and imprisoning some of the chiefs, and he not only accepted bribes from them, but,

CH. VII.

1586.

Govern-  
ment of Sir,  
W. Fitz-  
williams.

CH. VII. although he kept the money, he had the meanness not  
 1598. to perform his part of the bargain. Such conduct as this was not likely to gain the affections of any part of the population. The spirit of mistrust spread further under successive Deputies, till in 1598 the news that an English force had been defeated at the Blackwater roused the whole of Ireland to revolt. Never had any Irish rebellion assumed such formidable proportions, or approached so nearly to the dignity of a national resistance. At the head of the rebellion were the two great chiefs of the North, the O'Neill and the O'Donnell, who now threw off the titles with which Elizabeth had decorated them, in the vain hope that as the Earls of Tyrone and Tyrconnel they would be objects of less veneration to their countrymen than under their native appellations. A considerable army was despatched from  
 1599. England to make head against them, but Elizabeth insured the failure of her own forces by intrusting them to the command of Essex.

Lord  
 Mountjoy  
 in Ireland.

His successor, Charles Blount, Lord Mountjoy, was a Deputy of a very different character. He was known among the courtiers as a man of studious disposition, and was considered as little likely to distinguish himself in active life. Elizabeth, however, with the discernment which rarely failed her, excepting when she allowed her feelings to get the mastery over her judgment, selected him for the difficult post. It would have been impossible to find a man more fit for the work which lay before him. Unostentatious and conciliatory in manner, he listened quietly to every one's advice, and after weighing all that had been advanced, formed his own plans with an insight into the real state of affairs of which few others were capable, even in that age of statesmen and captains. His designs, when once formed, were carried out with a resolution which was only equalled by the vigour of their conception.

Feb. 25,  
 1600.

When Mountjoy landed in Ireland, he could scarcely command a foot of ground beyond the immediate vicinity of the Queen's garrisons. In three years he had beaten down all resistance. A large Spanish force, which had come to the assistance of the insurgents, had been com-



CH. VII.  
1800.

pelled to capitulate. The Irish chiefs who had failed to make their peace were pining in English dungeons, or wandering as exiles, to seek in vain from the King of Spain the aid which that monarch was unable or unwilling to afford. The system by which such great results had been accomplished was very different from that which had been adopted by Essex. Essex had gathered his troops together, and had hurled them in a mass upon the enemy. The Irish rebellion was not sufficiently organised to make the most successful blow struck in one quarter tell over the rest of the country, nor was it possible to maintain a large army in the field at a distance from its base of operations. Mountjoy saw at a glance the true character of the war in which he was engaged. He made war upon the Irish tribes more with the spade than with the sword. By degrees every commanding position, every pass between one district and another, was occupied by a fort. The garrisons were small, but they were well provisioned, and behind their walls they were able to keep in check the irregular levies of a whole tribe. As soon as this work was accomplished, all real power of resistance was at an end. The rebels did not dare to leave their homes exposed to the attacks of the garrisons. Scattered and divided, they fell an easy prey to the small but compact force of the Deputy, which marched through the whole breadth of the land, provisioning the forts, and beating down all opposition in its way.

The war was carried on in no gentle manner. Mountjoy was determined that it should be known that the chiefs were without power to protect their people against the Government. He had no scruple as to the means by which this lesson was to be taught. Famine or submission was the only alternative offered. The arrival of an English force in a district was not a temporary evil which could be avoided by skulking for a few weeks in the bogs and forests which covered so large a portion of the surface of the country. Wherever it appeared, the crops were mercilessly destroyed, and the cattle, which formed the chief part of an Irishman's wealth, were driven away. Then, when the work of destruction was

Horrible  
character  
of the war.

CH. VII. completed, the troops moved off, to renew their ravages  
1603. elsewhere. It is impossible to calculate the numbers which perished under this pitiless mode of warfare. From Cape Clear to the Giant's Causeway, famine reigned supreme. Strange stories were told by the troopers of the scenes which they had witnessed. Sometimes their horses were stabbed by the starving Irish, who were eager to feast upon the carcasses. In one place they were shocked by the unburied corpses rotting in the fields. In another, they discovered a band of women who supported a wretched existence by enticing little children to come amongst them, and massacring them for food.

Submis-  
sion of  
Ireland.

Before the spring of 1603, all was over. In the south, Sir George Carew, the President of Munster, had reduced the whole country to submission.\* In the north, the Lord Deputy himself had been equally successful. On the 8th of April, Tyrone came in to make his submission, and with him all resistance in Ulster was at an end, O'Donnell having died at Simancas in the preceding autumn. When Tyrone arrived in Dublin, he was met by the news of the death of Elizabeth. The letter announcing her decease arrived in Ireland on the 6th. Within an hour after Mountjoy had read it, King James was proclaimed through the streets of the capital.†

Mountjoy  
wishes to  
return to  
England.

The Deputy had achieved the difficult task which had been laid upon him. He had no desire to grapple with the still more difficult questions which were now pressing for solution. Enormous as had been the results which he had accomplished, the organization of his conquest into a civilised community required still greater labour and thought, and demanded the exercise of powers of a very different order. He himself was desirous to return to his country with the honours which he had acquired, and to leave to others the difficulties which were rising around him. He was drawn in the same direction by the unhallowed ties which bound him to Lord Rich's

\* On the 26th of March Balingarry was the only Castle which still held out. Wilmot to Carew, March 26, 1603, *S. P. Irel.*

† Mountjoy to the Council, April 6, 1603, *S. P. Irel.*

wife. The first petition which he made to the new sovereign was a request to be relieved from his office.\*

CH. VII.

.1603.

Dissatis-  
faction in  
the towns,

Before he received any answer, he was called away to repress commotions which had arisen in an unexpected quarter. For some time, the inhabitants of the seaport towns had felt considerable dissatisfaction with the proceedings of the Government. Their grievances were very different from those which gave rise to the discontent of the great chiefs and their followers. The chiefs knew well that the efforts of the Government at Dublin would be exerted in favour of their dependents, and that every step which was gained by the population over which they ruled, would diminish their own excessive and arbitrary power. They hated the English, therefore, with the hatred with which an abolitionist is regarded by a slave-owner. But the disaffection which prevailed in Cork and Waterford is to be traced to a different origin. It was not that the tendencies of the Government were too far advanced for them, but that they were themselves too far advanced for the Government under which they were living. They occupied in Ireland the same position as that which is now occupied in India by the non-official English. The general circumstances of the country required a strong executive, and it was necessary that the executive should determine questions which were absolutely unintelligible to the merchants of the towns. Yet though it was impossible to give them that influence over the Government of Ireland which was exercised by the citizens of London and Plymouth over the Government of England, it was inevitable that the weight of the Deputy's rule should press hardly upon them.

That the Government should act wisely upon all occasions was not to be expected. A blunder which had lately been committed, with the most excellent intentions, had given rise to well-founded complaints. In order to starve out the rebels, it had been proposed that the coinage should be debased, and that this debased coin should

Their  
griev-  
ances.The de-  
based coin-  
age.

\* Memorial enclosed in Mountjoy's letter to the Council, April 6, 1603, *S. P. Irel.*

## CH. VII.

1603.

be exchangeable in London for good money by those who obtained a certificate of their loyalty from the Irish Government. After some hesitation, Elizabeth gave in to this scheme. The Irish, or 'harp,' shillings, as they were called, had always been worth only ninepence in English money. Shillings were now coined which were worth no more than threepence. It was supposed that if they fell into the hands of rebels, they would be worth no more than their own intrinsic value, whereas in the hands of loyal subjects they would bear the value which they would command in London. As might have been foreseen, this proved to be a mistake. Even if the English Exchequer had made its payments with the regularity with which payments are now made at the Bank of England, the necessity of obtaining an order from the Government at Dublin, and of sending to England for the good coin, would have depreciated the new currency far below its nominal value. But such were the difficulties thrown in the way of those who wished to obtain payment from the impoverished Exchequer, that the currency soon fell even below the value which it really possessed. The misery caused by this ill-considered scheme spread over all Ireland. Government payments were made in the new coinage at its nominal value. The unhappy recipients were fortunate if they could persuade anyone to accept as twopence the piece of metal which they had received as ninepence. Gentlemen were forced to contract their expenditure, because it was impossible to obtain money which would be received by those with whom they dealt.\* But whilst the rebels, against whom the measure was directed, felt but little of its effects, the greatest part of the evil fell upon the townsmen, whose trade was interrupted by the irregularity of the currency.

The garrisons disagreeable to the towns.

In addition to the evils caused by this unfortunate error, some of the towns complained of the presence of soldiers, who were garrisoned either within their walls or in their immediate neighbourhood. It was necessary that the

\* Lord Slane, for instance, was obliged to send for his son, who was being educated in England, on account of his inability to maintain him. Slane to Cecil, March 24, 1603, *S. P. Ire.*

Government should have the command of the ports by which foreign supplies might be introduced into the country. Garrisons were accordingly maintained in the port-towns, and soldiers were occasionally billeted upon the inhabitants. The presence of a garrison was by no means desirable in days when soldiers were levied for an uncertain term of service, and when, consequently, armies were composed, far more than at present, of men of a wild and reckless character. But even if the soldiers had been models of order and sobriety, they could not have failed to be disagreeable to the citizens, who knew that, in the presence of an armed force, what liberties they had would wither away, and that their lives and fortunes would be dependent upon the arbitrary will of the Government. The feeling was natural; but the time was not yet come when their wishes could, with safety, be gratified. The withdrawal of the English troops would have been the signal for general anarchy, in which the citizens of the towns would have been the first to suffer.

To these causes of dissatisfaction was added the religious difficulty. Protestantism had never been able to make much way in Ireland. In large districts the mass of the people were living in a state of heathenism. Wherever there was any religious feeling at all, the people had, almost to a man, retained their ancient faith. Even if other causes had predisposed the Irish to receive the new doctrines, the mere fact that Protestantism had come in under the auspices of the English Government would have been sufficient to mar its prospects. In general, the Irish in the country districts were allowed to do pretty much as they liked; but in the towns, though the Catholics were permitted to abstain from attending the churches, the churches themselves were in the hands of the Protestant clergy, and their own priests were obliged to perform their functions in private.

The disaffection, which had long been smouldering, broke out into a flame even before the death of Elizabeth. A company of soldiers was ordered to Cork, to assist in building a new fort on the south side of the town. Sir Charles Wilmot and Sir George Thornton, who, in the absence of Sir George Carew, executed the office of

CH. VII.  
1803.

The churches in the hands of Protestants.

Proceedings at Cork.

CH. VII. President of Munster, sent a warrant to the mayor to lodge them in the city. The mayor was induced by the recorder, John Meade, a great opponent of the English, to shut the gates in their faces. The soldiers succeeded in forcing their way into the city, but were compelled to pass the night in a church. In reporting these occurrences to the President, the Commissioners had to add that the corporation had torn down the proclamation ordering the use of the base coinage, and that the citizens had closed their shops, and had refused to sell their goods unless they were paid in good coin.\*

Disputes  
between  
the corpo-  
ration and  
the  
soldiers.

Upon receiving the news of the Queen's death, the mayor, after some hesitation, published the proclamation of the accession of the new King.† On the 13th of April he wrote to Mountjoy, complaining of the disorderly conduct of the soldiers at the fort of Haulbowline, which guarded the entrance to the upper part of the harbour. He requested that the fort might be intrusted to the care of the corporation. A few days later the citizens demanded the restoration of two pieces of ordnance which had been carried to Haulbowline without the license of the mayor, and threatened that, unless their property were surrendered to them, neither munitions nor provisions should pass into the fort. The garrison agreed to give up these guns, on condition that two others which were lying in the town, and which were undoubtedly the property of the King, should be surrendered in exchange. At first the mayor, hoping to starve out the garrison, refused; but upon the introduction of provisions from Kinsale, the exchange was effected.‡

Proposed  
league be-  
tween the  
towns.

Meanwhile Meade was doing his utmost to incite the neighbouring cities to make a stand for liberty of conscience, and for the restoration of the churches to the old religion. At Cork, on Good Friday, priests and friars passed once more through the city in procession. They

\* Wilmot and Thornton to Carew, March 24, 1603, enclosing Captain Flower's relation, *S. P. Irel.*

† Mayor of Cork to Mountjoy, April 13, enclosed by Mountjoy to Cecil, April 18, 1603, *S. P. Irel. Annals of Ireland*, Harl. MS. 3544. This MS. contains the earlier portion of Farmer's work, of which the later part only is printed in the *Desiderata Curiosa Hibernica*. He seems to have been an eye-witness of the scenes at Cork.

‡ Boyle to Carew, April 20, 1603, *S. P. Irel.*

were accompanied by the mayor and aldermen, and by many of the principal citizens. In the rear came about forty young men scourging themselves.\* At Waterford the Bibles and Books of Common Prayer were brought out of the cathedral and burnt. At Limerick, Wexford, and Kilkenny, mass was openly celebrated in the churches.

CH. VII.

1603.

The magistrates of these towns felt that they were not strong enough to carry out the undertaking which they had commenced. They accordingly wrote to the Deputy, excusing themselves for what had been done.†

Mountjoy was by no means pleased with the work before him. He wrote to Cecil that he was determined to march at once against the towns, but that he knew that if they resisted he should have great difficulty in reducing them. His army could only subsist upon supplies from England, and he had never been worse provided than he was at that moment. He had in his time 'gone through many difficulties,' and he hoped to be able 'to make a shift with this.' The condition of the currency was causing universal discontent; the base money was everywhere refused. He knew 'no way to make it current' where he was 'but the cannon.' He hoped soon to be relieved of his charge. He had 'done the rough work, and some other must polish it.'‡

The Deputy left Dublin on the 27th. He took with him eleven hundred men. On the 29th he was met by the Earl of Ormond. At the same time, the chief magistrate of Kilkenny came to make his submission, and to attribute the misconduct of the citizens to the persuasions of Dr. White, a young priest from Waterford. The Deputy pardoned the town, and passed on to Waterford. On the 1st of May he encamped within three miles of the city. He was met by a deputation demanding toleration, and requesting him not to enter the town with a larger number of soldiers than the

April 27.

Mountjoy  
marches  
against the  
towns.

\* The description of the scene by the author of the *Annals* is a good specimen of the manner in which these ceremonies were regarded by the ordinary Protestant. He takes care to mention that the scourgers did not strike themselves too hard.

† Mountjoy to Cecil, April 26, 1603, *S. P. Irel.*

‡ Mountjoy to Cecil, April 25, 1603, *S. P. Irel.*

CH. VII.  
1603.

magistrates should agree to admit. In support of this request, they produced a charter granted to them by King John. The clause upon which they relied granted it as a privilege to the town of Waterford, that the Deputy should not, without their consent, bring within their walls any English rebels or Irish enemies. Mountjoy, of course, refused to be bound by any such clause as this. Next day he crossed the Suir, and approached the town. Dr. White came to him to try the effect of his arguments. The Deputy pushed him with the usual question, whether it was lawful to take arms against the King for the sake of religion. On White's hesitating to answer, Mountjoy replied in language which now sounds so strange in our ears, but which in those days truly expressed the belief with which thousands of Englishmen had grown up during the long struggle with Rome. 'My master,' he said, 'is by right of descent an absolute King, subject to no prince or power upon earth, and if it be lawful for his subjects upon any cause to raise arms against him, and deprive him of his Royal authority, he is not then an absolute King, but hath only precarium imperium. This is our opinion of the Church of England.'

Submis-  
sion of  
Water-  
ford.

In the evening the gates were thrown open. Mountjoy delivered to the marshal for execution one Fagan, who had been a principal fomenter of the disturbances; but even he was pardoned at the intercession of his fellow-townsmen.\*

Disturb-  
ance at  
Cork.

Wexford submitted, upon a letter from the Deputy.† Sir Charles Wilmot, hurrying up to Cork from Kerry, had secured Limerick on his way.‡ From Cork alone the news was unsatisfactory. On the 28th of April the citizens discovered that Wilmot was intending to put a guard over some of the King's munitions which were within the city. A tumult ensued, and the officers in charge of the munitions were put in prison. The word was given to attack the new fort, which was still un-

\* Mountjoy and the Irish Council to the Council, May 4; May to Carew, May 5, 1603, *S. P. Irel. Harl. MS. 3544.*

† Mountjoy to Cecil, May 4, 1603, *S. P. Irel.*

‡ Wilmot to Carew, May 7, 1603, *S. P. Irel.*



finished. Eight hundred men threw themselves upon the rising walls, and almost succeeded in demolishing the gate-house before Wilmot had time to interfere. Wilmot, who had no desire to shed blood, ordered his soldiers not to fire. As soon, however, as the townsmen began firing at them, it was impossible to restrain them any longer. Discipline asserted its power, and the citizens were driven headlong into the town.\* Wilmot and Thornton threw themselves into the Bishop's house, where they awaited the Deputy's arrival. Whilst there they were exposed to the fire from the guns of the city, but no great damage was done.

On Mountjoy's arrival, the city immediately submitted.† All resistance in this ill-calculated movement was at an end. The rebels were treated with leniency. Three only of the leaders were executed by martial law. Meade, the principal instigator of the rebellion, was reserved for trial. If, however, Mountjoy expected that the most convincing evidence could obtain a conviction from an Irish jury, he was mistaken. At the trial, which took place at Youghal in the following December, the prisoner was acquitted. The jurymen were summoned before the Castle Chamber at Dublin, the Court which answered to the English Star Chamber, and were heavily fined. They were forced to appear at the sessions which were being held at Drogheda with papers round their heads, which stated that they had been guilty of perjury. This exhibition was to be repeated at the next sessions held at Cork amongst their friends and neighbours. They were also condemned to imprisonment during the pleasure of the Government.‡

His work being thus successfully brought to a conclusion, Mountjoy received permission to leave his post. On his arrival in England, he was created Earl of

CH. VII.  
1603.

Submission of  
Cork.

Mount-  
joy's  
return.

\* Walley to Carew, May 6, 1603, *S. P. Irel.* Lady Carew, who was in the neighbourhood, showed no signs of timidity. She began a letter to her husband with these words, 'Here is great wars with Cork, and I am not afraid,' May 5, 1603, *S. P. Irel.*

† Mayor and Bayliffs of Cork to Cecil, May 26, 1603, *S. P. Irel.*

‡ *Hart. MS.* 3544. Carew to Cecil, April 26, 1604, *S. P. Irel.*

**CH. VII.** Devonshire, and admitted to the Privy Council. As a  
 1603. special reward for his services, he obtained the honorary title of Lord-Lieutenant of Ireland, to which a considerable revenue was attached. During the few remaining years of his life, he continued to devote considerable attention to the affairs of Ireland, and carried on a constant correspondence with the Deputies who succeeded him. His last years were not happy. Shortly after his arrival in England, Lady Rich left her husband, and declared that Devonshire was the father of her five children. Upon this Lord Rich obtained a divorce, and on the 26th of December, 1605, she was married to the Earl of Devonshire by his chaplain, William Laud, who was afterwards destined to an unhappy celebrity in English history. The validity of the marriage was exceedingly doubtful,\* and Devonshire himself only survived it a few months.

Sir George  
 Carew ap-  
 pointed  
 Deputy.

The post of Deputy was at first given to Sir George Carew,† who had held the office of Treasurer-at-War, and who is not to be confounded with the President of Munster of the same name, who had left the country shortly before the accession of James. He, too, was anxious to return to England, and it is not unlikely that his appointment was only intended to be of a temporary nature. One great reform marked the short term of his office. No sooner was he installed, than he pressed the English Government to put an end to the miseries unavoidably connected with the depreciation of the currency.‡ At first, half-measures were tried. Orders were given to the Warden of the Mint to coin shillings which were to be worth ninepence, whilst their nominal value was to be twelvepence. The base shillings, which in reality

\* The Ecclesiastical Courts only pronounced divorces *a mensâ et thoro* for adultery, and parties so divorced were prohibited by the 107th Canon from remarrying. The decree of the Star Chamber in the case of *Rye v. Fuljambe* (Moore, 683), was on the same side of the question. On the other hand, Parliament had refused to consider such remarriages as felony (1 Jac. I. cap. 2).

† The President of Munster afterwards became Lord Carew of Clopton. A third Sir George Carew succeeded Parry as ambassador in France, and at Salisbury's death was appointed Master of the Court of Wards.

‡ Carew and Irish Council to the Council, June 4, 1603, *S. P. Irel.*

were worth only threepence, were expected to pass for fourpence.\* Against these proceedings Carew immediately protested.† He was allowed to have his way. The new Irish shillings were declared by proclamation to be exchangeable, as they had originally been, for ninepence of the English standard.‡ It was not, however, till the autumn of the next year that the base money was finally declared to be exchangeable at no more than its true value.§

At last Carew obtained the object of his wishes. In July 1604, leave of absence was granted him which was followed, in October, by his permanent recall.||

The man who was selected to succeed him was Sir Arthur Chichester. A better choice could not have been made. He possessed that most useful of all gifts for one who is called to be a ruler of men—the tact which enabled him to see at once the limits which were imposed upon the execution of his most cherished schemes, by the character and prejudices of those with whom he had to deal. In addition to his great practical ability, he was supported by an energy which was sufficient to carry him through even the entangled web of Irish politics. Whatever work was set before him, he threw his whole soul into it. He would have been as ready, at his Sovereign's command, to guard an outpost as to rule an empire. He had already distinguished himself in the war which had just been brought to a conclusion. At an earlier period of his life, he had commanded a ship in the great battle with the Armada, and had served under Drake in his last voyage to the Indies. He took part in the expedition to Cadiz, and had served in France, where he received the honour of knighthood from the hands of Henry IV. Shortly afterwards, when he was in command of a company in the garrison of Ostend, Elizabeth, at Cecil's recommendation,

CH. VII.

1604.

The currency restored.

Appointment of Chichester as Carew's successor.

\* Proclamation, Oct. 11, 1603, *S. P. Irel.*

† Carew to Cecil, Oct. 14, 1603, *S. P. Irel.*

‡ Proclamation, Dec. 3, 1603, *S. P. Irel.*

§ Note in Cecil's hand to the 'Memorials for Ireland,' Aug. 20, 1604, *S. P. Irel.*

|| The King to Carew, July 16, 1604. The King to Carew and Irish Council, Oct. [15], 1604, *S. P. Irel.* Compare Calendar of Irish Patent Rolls.

CH. VII. gave him an appointment in Ireland. Mountjoy,  
 1604. who knew his worth, made him Major-General of the Army, and gave him the governorship of Carrickfergus, from whence he was able to keep in submission the whole of the surrounding country. The King's letter,\* appointing Chichester to the vacant office, was dated on the 15th of October, 1604. Stormy weather detained the bearer of his commission at Holyhead for many weeks, and it was not till the 3rd of February that the new Deputy received the sword of office.†

1605.

Hopeless as the condition of the country might seem to a superficial observer, Chichester saw its capabilities, and felt confidence in his own powers of developing them. He perceived at once the importance of the task. It was absurd folly, he wrote a few months later, to run over the world in search of colonies in Virginia or Guiana, whilst Ireland was lying desolate. The reformation and civilisation of such a country would, in his opinion, be a greater honour for the King than if he could lead his armies across the Channel, and could reduce the whole of France to subjection.‡

Social con-  
 dition of  
 Ireland.

Theory of  
 landed  
 property.

The difficulties under which Ireland laboured were social rather than political. The institution of the septs had long ago been superannuated, and served only to cover the tyranny of the chiefs with a decent name. These institutions had originally been those under which the greater part of the earth has at one time or other been held. When a new tribe takes possession of an uninhabited region, they generally consider the land which they acquire as the property of the tribe. Private property in the soil is at first unknown. A considerable part of the population support themselves by means of the cattle which wander freely over the common pasture-land of the tribe, and those who betake themselves to agriculture have no difficulty in finding unoccupied land to plough. As long as land is plentiful, it is more advantageous

\* *Account of Sir A. Chichester*, by Sir Faithful Fortescue. Printed for private circulation, 1858.

† Bingley to Cranborne, Jan. 9, 1605, *S. P. Irel. Harl. MS.* 3544.

‡ Chichester to Salisbury, Oct. 2, 1605, *S. P. Irel.*

to the agriculturist to be freed from the burdens of ownership. When the soil has become exhausted by a few harvests, it suits him better to move on, and to make trial of a virgin soil. As population increases, this state of things changes. The amount of land available for cultivation diminishes. To meet the growing demand, improved methods of agriculture are necessary, which can only be put in practice where the land has passed into private ownership.

CH. VII.  
1805.

In a large part of Ireland this change had not yet taken place. The form of territorial communism which prevailed wherever the Irish customs still held their own, was known to English lawyers by the ill-chosen name of the Irish custom of gavelkind. Upon the death of any holder of land, the chief of the sept was empowered not merely to divide the inheritance equally between the sons of the deceased, as in the English custom of gavelkind, but to make a fresh division of the lands of the whole tribe. Such a custom excited the astonishment of English lawyers, and has ever since caused great perplexity to all who have attempted to account for it. In all probability, it was but seldom put in practice. The anarchy which prevailed must have stood in the way of any appreciable increase of the population, and when land was so plentiful, the temptation to avail themselves of this custom can hardly ever have presented itself to the members of the sept, the greater part of whom were occupied in keeping cattle upon the common ground. Meanwhile the tradition of the existence of the custom kept up the memory of the principle that land belonged to the sept, and not to the individuals who composed it.

The Irish custom of gavelkind.

But with every modification, the tenure under which the land was held could not fail of being injurious to the population. In our own day, the Russian peasants are beginning to complain of a system which to a great extent resembles that which existed in Ireland at the beginning of the seventeenth century.\* That which is

The system could not last.

\* The Russian village communities redivide the land, not at every death, but at certain stated periods. [This was written before the emancipation of the serfs had been taken in hand.]

CH. VII.

1605.

being done in Russia by increased facilities of communication, was certain to be done for Ireland by the establishment of a settled government. With peace and order flourishing communities would arise, and with them a demand for agricultural produce which could not be satisfied from lands held under the Irish tenure. No man would spend much labour upon his fields, still less would he build farms and outhouses, if he were liable at any moment to be called upon to resign the land which he was occupying.

It is con-  
demned by  
the judges.

When, therefore, the judges pronounced that the custom was barbarous and absurd, and contrary to the common law of England,\* which was now looked upon as law over the whole of Ireland, they put the finishing stroke to a system which the Irish themselves, though they were attached to it by ties of habit, might, by judicious treatment, have been easily persuaded to abandon.

The septs  
and the  
chiefs.

But, great as would be the advantage of a change which would extend to the whole of Ireland the benefits of a real proprietorship of land, everything depended upon the manner in which the new arrangements were carried out. Such a change, rooted as the old system was in the habits of the people, required the utmost delicacy of treatment, even though the people had ceased to feel any great affection for the system itself. The difficulty which Chichester was called upon to confront was considerably increased by the connection which existed between the tenure of land and the political institutions of the septs. Originally, no doubt, the power of the chief was extremely limited; but limited as it might be, it was necessary that he should be a man of full age, in order to preside over the assembly of the sept and to lead its forces in the field. In Ireland, as in other parts of the world, an attachment was formed in each tribe to one family; but, a strictly hereditary succession being impossible, it became the custom to elect from amongst the relatives of the chief a successor who appeared best qualified to fulfil the functions of the

\* Davies' Reports. Hil. 3 Jac.

office. The relative thus designated was called the Tanist. The chief had originally been nothing more than the representative of the sept. In process of time he became its master. The active and daring gathered round him, and formed his body-guard. The condition of the Irish peasant, like that of the English peasant before the Norman Conquest, grew worse and worse. At the beginning of the seventeenth century, he still held the theory that the land belonged to the cultivator, at least as long as he occupied it, and that the chief had no right to anything more than to certain fixed payments. In practice everything depended upon the mere will of the chief: and his arbitrary exactions appeared even in the guise of settled customs, and obtained regular names of their own. Under the name of coigne and livery, the chief might demand from the occupier of the land support for as many men and horses as he chose to bring with him. But oppressive as such a custom was, it was as nothing to the unrecognised abuses which were continually occurring. Under such a condition of things, it was impossible for any salutary change in the tenure of land to be effected. If the cultivators were to obtain any fixed interest in the soil, it was necessary that the chiefs should obtain a similar interest. They must cease to be chiefs, and they must become landowners. As such, they must be led to take an interest in their estates, which they could not feel as long as they only held them for life. In other words, the custom of Tanistry must be abolished.

The English Government had long been alive to the importance of the alteration required. In 1570 an Act had been passed establishing a form by which Irish lords might surrender their lands, and receive them back to hold under English tenure. In many cases this permission had been acted upon. In other cases lands forfeited by rebellion had been regranted, either to English colonists or to loyal Irishmen. In every case the grants were made only upon condition that the new lord of the soil should assign freeholds to a certain number of cultivators, reserving to himself a certain stipulated rent. By this transaction every party profited. The new lord of the manor lost, indeed, with his independent position, the

The Government  
anxious to  
abolish  
Tanistry,

## CH. VII.

1605.

privilege of robbing his followers at pleasure; but, under the old system, the property of his followers must have been extremely small, and, with the increasing influence of the English Government, his chances of being able to carry out that system much longer were greatly diminished. In return for these concessions, he gained a certainty of possession, both over the rents, which would now be paid with regularity, and over the large domains which were left in his own hands, and which would become more valuable with the growing improvement in the condition of the surrounding population. Above all, he would be able to leave his property to his children. The new freeholders would gain in every way by the conversion of an uncertain into a secure tenure. But those who in the end would be the greatest gainers were the members of that class which was least considered in the contract. Although no lands were assigned to the peasants themselves, they would gradually cease to be houseless wanderers upon the face of the earth, and would find a prospect of obtaining steady employment.

and to extend the privileges of the English Constitution.

If the Government committed a mistake, it was one which may well be pardoned. Arbitrary as the rule of the Council-table and the Castle Chamber appears to us, those who set it in motion were by no means desirous to extend unnecessarily the functions of the central Government. They wished that Ireland should become the sister of England, not her servant. The two countries were to be one, as England and Wales were one, as it was hoped that, one day, England and Scotland would be one. They were ready enough to deal harshly with factious Parliaments, and to fine perjured juries; but they did not imagine it possible to civilise the country without all the machinery of freedom in the midst of which they had themselves grown up. The moment that they saw any prospect of converting the wandering Irish into settled proprietors, they were anxious to put the whole ordinary administration of the country into their hands. The new freeholders were to furnish jurymen, justices of the peace, and members of Parliament. If they were called upon to perform functions for which they were hardly fitted, at all events the mistake was one upon the right side.



During the reign of Elizabeth, in spite of many errors, considerable progress had been made. When Chichester entered upon his office, the greater part of Leinster was in a settled and orderly condition. In the spring of 1604, assizes had been held in different parts of the province, and it was found that the gentlemen and freeholders were able to despatch business as well as persons of the same condition in England.\* But even in Leinster there were exceptions to the general tranquillity. The counties of Carlow and Wexford were overawed by a band of eighty or a hundred armed men, who found hiding-places for themselves and a market for their plunder amongst the Cavanaghs and the Byrnes. The latter sept, with that of the Tooles, still possessed, after the Irish fashion, the hilly country which is now known as the county of Wicklow, but which at that time had not yet been made shire-ground.

CH. VII  
1605.

Progress  
during the  
reign of  
Elizabeth.

Condition  
of Lein-  
ster,

In Munster there had been, during the late reign, great changes in the ownership of the land. Many of the Irish chiefs had been uprooted, and had given way either to English colonists, or to Irishmen who owed their position to the success of the English arms. Carew had been succeeded, as President, by Sir Henry Brouncker, a man of vigour, who, though at times apt unnecessarily to provoke opposition, succeeded in maintaining good order in the province.

of Mun-  
ster,

Connaught was, fortunately, in the hands of a nobleman who, like the Earl of Thomond in Clare, was wise enough to see where the true interests of himself and of his country lay. The Earl of Clanrickard was the descendant of the Norman family of the Burkes or the De Burghs, which had been counted during the Middle Ages amongst the degenerate English. At an early age he had attached himself to the Government, and had remained constant during the years when the tide of rebellion swept over his patrimony, and seemed to offer him the fairest prospect of obtaining an independent sovereignty. He was now invested with the office of

of Con-  
naught,

\* Davies to Cecil, April 19, 1604, *S. P. Ire.* He adds, 'The prisons were not very full, and yet the crimes whereof the prisoners stood accused were for the most part but petty thefts.'

**CH. VII.** President of his own province. He exercised the whole  
**1605.** civil and military authority in Connaught, but in the spirit of a dependent prince rather than in that of a subordinate officer. The Deputy was contented to know that things were going on well in that distant province, and prudently refrained from exercising a constant supervision over the acts of the President.

**of Ulster.** If Chichester could look upon the condition of Connaught with complacency, it was far otherwise with regard to Ulster. It was difficult to say how civilisation was to be introduced into the northern province as long as barbarism was under the protection of the two great houses of the O'Neills and the O'Donnells. The head of the O'Neills, the Earl of Tyrone, had submitted on condition of receiving back his lands, with the exception of certain portions, which were to be held by two of his kinsmen.\* The last O'Donnell had died in exile, and his Earldom of Tyrconnel was disputed between his brother Rory and Neill Garve O'Donnell, a more distant relative. The latter had taken the title of The O'Donnell, which was looked upon as a sign of defection from the English Crown. The progress of the war, however, made it plain that it would be impossible for either of the kinsmen to maintain himself without English aid. Upon Tyrone's submission, the competitors hastened to seek the favour of the Government.† Mountjoy at once decided in favour of Rory. Not only was he the heir to the earldom, according to English notions, but the character of his rival was not such as to prepossess the Deputy in his favour. Neill Garve was violent and ambitious, and was not likely to prove a submissive subject.‡ He was, however, indemnified by the grant of a large extent of land in the neighbourhood of Lifford, which had formerly belonged to the chief of the sept, but which was henceforth to be held directly of the Crown. The new earl received the

**The  
O'Neills.**

**The  
O'Donnells.**

\* Henry Oge O'Neill, and Tirlagh MacHenry. Note by Mountjoy, April 8, 1603, *S. P. Irel.* Three hundred acres were also reserved for the fort at Charlemont, and the same quantity for the fort of Mountjoy.

† Docwra to Mountjoy, April 8, 1603, *S. P. Irel.*

‡ Mountjoy to Cecil, April 25, 1603, *S. P. Irel.*

remainder of the territory of his predecessor, having agreed to give up any land which might be needed by the Government for the support of garrisons. When Mountjoy returned to England, he took the two earls with him. They were well received by James, and returned with the full assurance that the Deputy's promises should be fulfilled.

CH. VII.  
1605.

During their absence, the Chief Baron, Sir Edward Pelham, went on circuit through Ulster. It was the first time that an English judge had been seen in the North, or that the peasantry had ever had an opportunity of looking upon the face of English justice. The results were, on the whole, satisfactory. He reported that he had never, even in the more settled districts near the capital, been welcomed by a greater concourse of people. He found that 'the multitude that had been subject to oppression and misery, did reverence him as he had been a good angel sent from heaven, and prayed him upon their knees to return again to minister justice unto them.' When, however, he came to apply to the more powerful inhabitants, he found that the fear of Tyrone was still weighing heavily upon them. It was in vain that he pressed them to allow him to enrol them in the commission of the peace. They told him that it was impossible for them to take such a step without the permission of their chief.\*

The first circuit in Ulster.

The position which was occupied by the two earls could not long continue. They were not strong enough to be independent, and they were too proud to be subjects. It was only a question of time when the inevitable quarrel between them and the Government would break out. When Tyrone returned from England, he found that the cultivators of the land would no longer submit to the treatment which they had borne in silence for so many years. As soon as he attempted to renew his old extortions, a number of them fled for refuge to the protection of the English Government. Upon hearing what had happened, he demanded their surrender. He was told that they were not his bondmen or villains, but the

Position of the earls upon their return.

The Government refuses to surrender Tyrone's tenants.

\* Davies to Cecil, Dec. 1, 1603, *S. P. Irel.*

**CH. VII.** King's free subjects.\* It was by his own choice that he  
 1605. held back from holding his land by English tenure, and giving himself fixed rights over his tenants. He must take the consequences if they refused to submit to his irregular and exorbitant demands.

He declines to admit a sheriff in Tyrone.

Another question between the great earl and the Government arose from his refusal to allow the appointment of a sheriff in his county, as he justly regarded such a measure as the first step towards superseding his own rule by regular justice. At the same time, it must be allowed that he showed some activity in repressing thieves. He even went so far as to hang a nephew of his own.†

Neill Garve in Donegal.

In Donegal, Neill Garve was still master of the whole county in the spring of 1604. The new earl was lying quiet within the Pale, 'very meanly followed.' In Fermanagh, open war was raging between two of the Maguires, who were equally discontented with the share of land which had lately been allotted to them.

The Maguires in Fermanagh.

The army in Ireland.

The military force upon which Chichester could rely was not large. Ireland was a heavy drain upon the English Treasury, and, with peace, the army had been considerably reduced. The proportions in which these troops were allotted to the different provinces, show plainly where the real danger lay. The whole army consisted of three thousand seven hundred foot, and two hundred and twenty-nine horse. Of the infantry, five hundred men were sufficient to guard Connaught. Munster was held by nine hundred. Six hundred kept order in the neighbourhood of Dublin, and in the south of Leinster. Four hundred lay in Derry, and thirteen hundred were posted in the long line of forts by which Ulster was girdled round from Carrickfergus on St. George's Channel, to Ballyshannon on the Atlantic.‡ By these garrisons, the North of Ireland was held as in a vice.

The council.

In carrying out his plans, Chichester had the assistance of a council, composed of persons who had long served

\* Davies to Cecil, April 19, 1604, *S. P. Irel.*

† Chichester to Cecil, May 28, 1604, *S. P. Irel.*

‡ List of the Army, Oct. 1, 1604, *S. P. Irel.* Another statement of the same date gives rather higher numbers.

the Crown, either in a civil or in a military capacity. They were active and industrious in the fulfilment of their duties; but none of them were men who rose above the level of an intelligent mediocrity. The only man of real ability upon whom he could rely was the new Solicitor, Sir John Davies. He had arrived in Ireland towards the end of 1603, and had at once thrown himself energetically into the work of civilising the country. His honesty of purpose was undoubted, and his great powers of observation enabled him at once to master the difficulties which were before him. The most graphic accounts which we possess of Ireland during the time of his residence in the country are to be found in his correspondence. He was indefatigable in his exertions. Far more than any of the more highly-placed law officers, he contributed to the decisions which were taken upon the legal and political questions which were constantly arising. Unhappily, his great powers were seriously impaired by one considerable defect: to a great knowledge of institutions he joined a profound ignorance of human nature. With him it was enough that he had the law upon his side, if he was sure that the law when carried out would be attended with beneficial consequences. It never occurred to him to consider the weaknesses and feelings of men, or to remember that justice is a greater gainer when a smaller measure of reform is willingly accepted, than when a larger improvement is imposed by force. He was capable of becoming an excellent instrument in the hands of such a man as Chichester; but it might safely be predicted that if ever he should be able to induce the English Government to adopt a policy of his own, the most disastrous consequences would ensue.

CH. VII.  
1605.

Sir John  
Davies.

Chichester had taken formal possession of his office on the 3rd of February, 1605. On the 20th he notified, by the issue of two proclamations, that the Deputy's sword had not fallen into sluggish hands.\* The first began by reciting the abuses committed by the Commissioners for executing Martial Law, and by revoking the greater

The proclamations for the cessation of martial law, and for a general disarmament.

\* Proclamations, Feb. 20, 1605, *S. P. Ire!*

CH. VII.  
1605.

number of such Commissions. The other proclamation was of far greater importance. Carew had issued an order for a general disarmament, by which alone it would be possible to maintain peace for any length of time. He had ordered that persons travelling on horseback should carry nothing more than a single sword, and that persons travelling on foot should carry no arms at all. But Carew had allowed his directions to remain a dead letter, excepting in Connaught, where they had been enforced by Clanrickard.\* Chichester now repeated these directions, and ordered that all who contravened them should be imprisoned, and their arms brought to the commander of the nearest fort. In order to interest the commanders in the seizure, it was added that they should be rewarded with half the value of the confiscated arms. Exceptions were made in favour of gentlemen of the Pale and their servants, of merchants following their trade, of known householders within the Pale, and, finally, of any loyal subject who might receive special permission to carry arms.

Proclamation of an amnesty,

These proclamations were shortly followed by another, setting forth the principles upon which the Government was to be carried on.†

and of protection to the poor.

Full pardon was at once granted for all acts committed against the Government before the King's accession. The officers of the Government through whom the pardons passed were forbidden to extort anything beyond the regular fees.‡ No complaints of robberies or outrages committed before the 1st of November, 1602, were to be listened to. The proclamation then turned to lay down, in plain and strong language, the policy of the Government towards the mass of the population. The Deputy promised to receive all poor persons under the King's protection, 'to defend them and theirs from the injuries, oppressions, and unlawful exactions of the chief lords and gentlemen of the several counties wherein they dwell, as also of and from the extortion and violence of

\* Davies to Cecil, April 19, 1604, *S. P. Irel.*

† Proclamation, March 11, 1605, *S. P. Irel.*

‡ A shilling in the case of a gentleman, and sixpence from any other person.

all sheriffs, escheators, purveyors, and all other officers, ministers, and persons whatsoever which have, or pretend to have, any jurisdiction, authority, or power over them ; and that as they are all His Highness' natural subjects, so will His Majesty have an equal respect towards them all, and govern them all by one indifferent law, without respect of persons.'

CH. VII.  
1605.

Coming to particulars, the proclamation then noted several abuses which prevailed. Since the rebellion, many lords and gentlemen had received grants of their lands to be held by the English tenure. The patents were full of long phrases, as is usually the case with legal documents. These phrases had been interpreted by the landowners as giving them full power over their dependents. They proceeded to treat men whose ancestors had, as members of the sept, held land for generations, as if they were now no more than mere tenants at will. Another grievance was that the lords who received their lands back after losing them by attainder, not finding their tenants mentioned by name in the patents, pretended that the attainder included the tenants, whilst the pardon did not contain any reference to them at all. They inferred from this, that they were still affected by the attainder, and that their estates were now, by the new grant, vested in their lords. The Deputy declared these interpretations to be contrary to the intention of the grants. He also adverted to the arbitrary exactions which were levied, under various high-sounding names, by the Irish lords. He declared that they were nothing more than an organized system of robbery. He told the lords that these proceedings were illegal, and he enjoined upon them to let their lands at fixed rents.

Tenants to be admitted to their full rights.

Arbitrary exactions to cease.

Another source of complaint was that the lords still retained powers in their hands which were inconsistent with the establishment of a settled government. It was therefore necessary to inform them that they were no longer to have the power of arresting their tenants for debt, or for any other cause, unless they were provided with a lawful warrant issued by the ordinary ministers of justice. They were not to levy fines on their tenants, except in such ways as the law allowed, nor to

None but the legal redress of injuries to be permitted.

CH. VII. remove their tenants from one place to another against  
 1805. their will, nor to treat them otherwise than as freemen.

All Irish-  
 men are  
 immediate  
 subjects of  
 the Crown.

The proclamation then proceeded to sum up the whole substance of the English policy in the following words : 'To the end the said poor tenants and inhabitants, and every' one 'of them, may from henceforth know and understand that free estate and condition wherein they were born, and wherein from henceforth they shall all be continued and maintained, we do by this present proclamation, in His Majesty's name, declare and publish, that they and every' one 'of them, their wives and children, are the free, natural, and immediate subjects of His Majesty, and are not to be reputed or called the natives,\* or natural followers of any other lord or chief-tain whatsoever, and that they, and every' one 'of them, ought to depend wholly and immediately upon His Majesty, who is both able and willing to protect them, and not upon any other inferior lord or lords, and that they may and shall from henceforth rest assured that no person or persons whatsoever, by reason of any chiefry or seignory, or by colour of any custom, use, or prescription, hath, or ought to have, any interest in the bodies or goods of them, or any of them; and that all power and authority which the said lords of counties may lawfully claim or challenge is not belonging to their lordships, chiefries, or seignories, but is altogether derived from His Majesty's grace and bounty, whereby divers of the said lords have received, and do enjoy their lands, lives, and honours; and that His Majesty, both can and will, whensoever it seem good to his princely wisdom, make the meanest of his said subjects, if he shall deserve it by his loyalty and virtue, as great and mighty a person as the best and chiefest among the said lords. Howbeit we do, in His Majesty's name, declare and publish unto all and every the said tenants, or other inferior subjects, that it is not His Majesty's intent or meaning to protect or maintain them, or any of them, in any misdemeanour or insolent carriage towards their lords, but that it is His Majesty's express pleasure and commandment, that the said tenants and meaner sort of

\* i. e. serfs.



subjects, saving their faith and duty of allegiance to His Majesty, shall yield and perform all such respects and duties as belong and appertain unto the said lords, according to their several degrees and callings, due and allowed unto them by the laws of the realm.\*

CH. VII.  
1605.

The Deputy knew well that mere words were not sufficient to carry out the noble policy which he had so deeply at heart. He accordingly determined to go in person into Ulster, accompanied by the council and by some of the judges.

Chichester  
goes into  
Ulster.

At Armagh, he persuaded O'Hanlon, who was the chieftain in that part of the country, to surrender his land, and to receive it under English tenure, upon condition of making freeholders.

His pro-  
ceedings at  
Armagh,

At Dungannon, he succeeded in inducing Tyrone to create his younger sons freeholders. He was soon besieged with petitions from the gentlemen of the county, requesting him to settle their differences with the earl. They desired to have their property completely in their own hands, and asserted that they had been freeholders beyond the memory of man. Tyrone, who took a different view of Irish tenure, declared that the whole country belonged to him. Chichester, perhaps to avoid giving offence to either party, told them that he had no time to consider the question then, but took care to order that the land should remain in the possession of the occupiers until his decision was given. From Dungannon he passed on to Lifford, where he persuaded the Earl of Tyrconnel and Neill Garve to submit their claims to his arbitration. To Neill Garve he assigned land to the extent of nearly thirteen thousand acres; the rest of the county was awarded to the earl. One exception was made. The Deputy was particularly

at Dun-  
gannon,

and Liff-  
ford.

\* In a Memorial in the *Cott. MS.*, Tit. vii. 59, Chichester attributes to himself the suggestion of this proclamation. He had, however, obtained the King's consent before publishing it (see Chichester to Cranborne, March 12, 1605, *S. P. Irel.*). Captain Philipps, in a letter to Salisbury (May 19, 1605, *S. P. Irel.*), says that he published it in Antrim. 'The people' will not endure any more wrongs of their chieftains and lords, but do presently search for redress, which they before durst never do, but were as bondmen. . . . As soon as I had the proclamation read among them there were many which complained against their chieftains and lords.'

CH. VII.  
1605.

struck with the situation of Lifford, and reserved it, not without giving umbrage to Tyrconnel,\* for the purpose of establishing a colony there. The colony was to be composed of English and Scotch, and was to have attached to it a sufficient quantity of land to support the settlers, in order that they might not be dependent upon trade. Chichester was also successful in persuading Tyrconnel to create freeholders on his lands. Sir Cahir O'Dogherty, the most important of the lords dependent upon the earl, consented to adopt the same course in his own country in the peninsula of Innishowen.

He in-  
spects the  
fortifica-  
tions.

Besides the use which he made of his time in gaining over the great men of the north to accept the new order of things, the Deputy was active in inspecting the condition of the fortifications at the different forts, and in holding assizes at the chief towns through which he passed.

His report  
to the Go-  
vernment.

Upon his return, Chichester sent a detailed report of his proceedings to the Government. He considered that he had made some way, though he had not accomplished all that he could wish.† A few days later, the dark side of the picture seems to have been uppermost in his mind. One of his chief difficulties was that of obtaining persons sufficiently independent to be fit for the office of justice of the peace. No Irishman could, as yet, be expected to maintain equal justice between rich and poor, and the Englishmen who were at his disposal were, on account of the smallness of their pay, liable to the temptations of bribery. The remedy that occurred to him was the introduction of English and Scotch colonists. The abbey lands, still in the King's hands in Ulster, would put it into his power to introduce them without confiscating the property of a single Irishman.‡

Practical  
toleration  
during the  
Queen's  
reign.

On his return to Dublin, Chichester found his attention called to a very different subject. During the greater part of the late reign no attempt had been made to compel the Irish Catholics to attend the Protestant

\* Tyrconnel to Salisbury [Sept. 1], 1605, *S. P. Irel.*

† Chichester and the Irish Council to the Council, Sept. 30, 1605, *S. P. Irel.*

‡ Chichester to Salisbury, Oct. 2 and 4, 1605, *S. P. Irel.*

service. There was indeed an Act in existence by which a fine of one shilling was imposed for every time of absence from church, but the impossibility of enforcing it over the greater part of the country, and the imprudence of making fresh enemies where it could have been imposed with less difficulty, had prevented the Government from taking any steps to put the law in force. In 1599, however, an attempt was made to enforce the fine, but the design was soon given up, greatly to the annoyance of the youthful Usher, who predicted that God's judgments would fall upon a country where Popery was allowed to exist unchecked.\* But with the submission of the whole island, a strong temptation was offered to those in power to avail themselves of the means which were in their hands to enforce attendance upon the services. They had a strong feeling of the benefits which would result if the Irish could be induced to accept the religion under which England had grown in moral stature, and they had no idea of the evils which attended the promulgation of truth itself by the strong hand of power.

CH. VII.  
1605.

The strength of the old faith lay chiefly with the upper classes of the principal towns, and with the inhabitants of the more civilised country districts. All those who would under a less centralised government have taken part in the administration of affairs, clung to the tenets of their ancestors as a symbol of resistance to foreign domination. In the wilder parts of the country that domination was rapidly becoming a blessing to the mass of the population, which was only loosely attached to any religious system at all. If the policy which Chichester had announced were persisted in, the Irish people would soon look upon the Government as the source of all their prosperity, and would gladly listen to

Religious  
condition  
of Ireland.

\* In preaching from Ezek. i. 6, he applied the forty years which are there spoken of to Ireland. 'From this year,' he said, 'will I reckon the sin of Ireland, that those whom you now embrace shall be your ruin, and you shall bear their iniquity.' It has been generally supposed that these words were spoken in 1601, and they have been considered to have been a prediction of the Rebellion of 1641; but Dr. Elrington has shown that the sermon cannot have been preached earlier than the end of 1602.—Usher's Works (1847), i. 23.

CH. VII. preachers who were connected with a power from which  
 1605. such temporal advantages had been derived. If the Irish Church had been content with the position of a missionary church, relying on its own merits, and if, at the same time, the land question had been altogether left in Chichester's hands, the greater part of Ireland would probably have become Protestant. Those who still refused to adopt the belief of the English Church would, at all events, have shared in the general prosperity, and being left undisturbed in their faith, would have ended by becoming peaceable and loyal citizens.

The Irish Bishops anxious to enforce the Recusancy Act.

Such views as these were not likely to make themselves heard at the beginning of the seventeenth century. Shortly after the accession of James, rumours reached Ireland that he intended to grant a general toleration. The Archbishop of Dublin and the Bishop of Meath immediately wrote to the King, protesting against such a measure, and entreating him to put some check upon the priests, to send over good preachers, and to compel the people to come to church.\*

State of the Irish Church.

James, who, at the beginning of his reign, had suspended the action of the Recusancy laws in England, took no notice of the first and last of these requests, but signified his intention of planting a learned ministry in Ireland. It was certainly time that something should be done. Excepting in the towns, scarcely anything worthy of the name of a church existed, and in the towns the preachers almost universally failed in obtaining even a hearing.† In the country the condition of the Church was deplorable. It was generally believed that the majority of the clergy were unable even to read. During the times of anarchy, the livings had fallen into an evil plight. It frequently happened that the patrons took possession of a large part of the income of the benefice, whilst they nominated, for form's sake, some illiterate person to the vacant post. This nominee usually agreed

\* The Archbishop of Dublin and the Bishop of Meath to the King, June 4, 1603, *S. P. Irel.* The most important part of this curious letter is printed in *Notes and Queries*, 2nd Series, x. 83.

† The Archbishop of Dublin and the Bishop of Meath to the Council, March 5, 1604, *S. P. Irel.*

before his institution that he would be content with a mere fraction of his nominal income. Cases were known in which grooms and horse-boys held two or three benefices a-piece. Nor was this the worst. Even bishops, who should have stemmed the tide of corruption, took part in it themselves. Foremost in the ranks of these episcopal pluralists stood the Archbishop of Cashel. In addition to his archiepiscopal see, he held three bishoprics and seventy-seven other benefices. The infamous sale of promotions which took place in his diocese became afterwards the subject of a special inquiry. Hundreds of churches were lying in ruins over the whole of Ireland. In hundreds of parishes no divine service was ever celebrated, no sacrament administered, no Christian assemblies held of any kind. Here and there, to the disgust of the Government, a few benefices were in the hands of Jesuits, and the Papal Nuncio obtained an annual income of forty or fifty pounds from a living which he held within the Pale.\* But these were exceptions. As a rule, heathenism was settling down over the whole face of the country.

On his way to the north, in the course of his first progress, Chichester found the Cathedral at Armagh in ruins. There were dignitaries of various kinds, but all of them had received ordination from the Church of Rome, and held their posts in virtue of commissions from the Pope. They refused to use the English service. There was attached to the church a college for twelve vicars choral, endowed with tithes, but its revenues had been confiscated by the dean without any lawful authority. It happened that the archbishop, who rarely visited his diocese, was in the Deputy's company. Chichester ordered him to provide a minister for the place, and directed that he should himself reside in Armagh for at least three or four months in the year. The tithes which had been so scandalously embezzled were, for the present, to be employed in maintaining poor scholars at the College in Dublin, till a sufficient

CH. VII.

1805.

Chichester's proceedings at Armagh.

\* Davies to Cecil, Feb. 4, 1604. Justice Saxey's Discourse [1604], *S. P. Irel.*

CH. VII. number of educated men were provided for the service  
1605. of the Church.

Proclama-  
tion to en-  
force the  
Recusancy  
Act.

As soon as he had reached Dublin, the Deputy found that James had determined to make an attempt to drive the recusants to church. On the 4th of July, a proclamation had been issued by the King himself, commanding all persons in Ireland to repair to their several churches, and directing that all priests who remained in the country after the 10th of December, should be banished.\* Directions were also given, that all the judges were to attend the Protestant services.

Sir J.  
Everard  
removed  
from the  
Bench.

The Deputy, whose ideas on religious liberty were like those of the mass of his contemporaries, prepared to carry out his instructions. He sent for Sir John Everard, the only one of the judges who refused to conform, and entreated him to give way, offering to allow him as much time for consideration as he wished for. After the lapse of a year, as he still refused to comply, he was finally removed from his post.†

Difficulty  
in dealing  
with the  
Irish re-  
cusants.

Against the Recusants in general, the Deputy was furnished with fewer weapons than those which were at the disposal of the Government in England. No Irish Act of Parliament existed which authorised the exaction of more than a shilling for every absence from church. Unhappily, an idea occurred either to Chichester or to some of his advisers,‡ by which he hoped to be able to supplement the deficiency of the law. The elastic powers of the Castle Chamber might be stretched to cover a less urgent case. Chichester had set his heart upon the improvement of Ireland, and he was firmly convinced that, without the spread of Protestantism, all his efforts would be in vain, and he was too much in earnest to wait for the operation of time. He thought that if the upper classes of the towns could be brought to church, their poorer neighbours would follow their example. But it was ridiculous to expect that

\* Proclamation, *S. P. Irel.*

† Chichester and the Irish Council to the Council, Oct. 5, 1605. Davies to Salisbury, Dec. 5, 1606, *S. P. Irel.*

‡ It was certainly supported by Davies. Davies to Salisbury, Dec. 9, 1605, *S. P. Irel.* It looks very like one of his suggestions.

wealthy merchants and shopkeepers would be influenced by a paltry fine of a shilling a week. It was therefore necessary that stronger measures should at once be taken.

CH. VII.  
1605.

In the course of the month of October, the aldermen, and several of the chief citizens of Dublin, were summoned before the Council. The Deputy distinctly disclaimed any desire to force their consciences. To change the faith of any person was the work of God alone. But the matter now before them was not a question of conscience at all. He merely asked them to sit in a certain place for a certain time. They were only required to listen to a sermon. They need not profess assent to the doctrines which they heard. It was a mere question of obedience to the laws.

The Aldermen of Dublin required to attend church.

It was all in vain. With one voice they told the Deputy that they could not with a clear conscience obey the King in this point.\* Accordingly, on the 13th of November, formal mandates were served upon them, commanding them to attend church on the following Sunday.† They disobeyed the order, and sixteen of them were summoned before the Castle Chamber on the 22nd. Of the proceedings on this occasion, all that has come down to us is a speech delivered by one of the King's Counsel, whose name is not given. In this speech the claims of the civil power to obedience were put forward in the most offensive way. After a long argument in favour of the King's jurisdiction in ecclesiastical matters, the speaker proceeded with the following extraordinary remarks:—'Can the King,' he asked, 'make bishops, and give episcopal jurisdictions, and cannot he command the people to obey that authority which himself hath given? Can he command the bishop to admit a clerk to a benefice, and cannot he command his parishioners to come and hear him? . . . The King commands a man to take the order of knighthood. If he refuse it, he shall be fined, for it is for the service of the commonwealth. Can the King command a man

They refuse, and are summoned before the Castle Chamber.

\* Fenton to Salisbury, Oct. 26, 1605, *S. P. Irel.*

† Mandate, Nov. 13, 1605, *S. P. Irel.*

CH. VII. to serve the commonwealth, and cannot he command  
 1605. him to serve God ?'

Petition  
 presented  
 by the lords  
 and gen-  
 tlemen of  
 the Pale.

Sentence of  
 the Castle  
 Chamber.

Imprison-  
 ment of  
 some of the  
 petitioners

Before the proceedings were brought to a close, Chichester discovered that they were likely to awaken greater resistance than he had expected. The principal lords and gentlemen of the Pale appeared before the Court with a petition in which, after protesting their loyalty, they begged that the execution of the King's proclamation might be deferred until they had informed His Majesty of the injustice to which they were subjected.\* No notice was taken of the petition at the time, and sentence was pronounced upon nine of those who had been summoned before the Court. Those of them who were aldermen were each to pay a fine of one hundred pounds, the others escaped with a payment of half that sum.† Chichester, who was afraid lest he should be accused of having set these prosecutions on foot for the purpose of replenishing the Exchequer, directed that the fines should be expended upon the repairing of churches and bridges, and other works of public utility.‡ A few days later the remainder of the sixteen were sentenced to similar fines, with the exception of one of the aldermen, who promised to come to church.

The immediate result of these proceedings appeared to be satisfactory. The parish churches were better attended than they had been for many years.§ The Deputy felt himself strong enough to imprison some of those who had been most forward in preparing the petition. Those who asked pardon were soon set at liberty; but one or two, who showed no signs of contrition, were retained in confinement.|| Sir Patrick Barnwall, who had had the chief

\* Petition enclosed by Chichester to Salisbury, Dec. 7, 1605, *S. P. Irel.*

† Decree of the Star Chamber. Enclosed by Davies to Salisbury, Dec. 9, 1605, *S. P. Irel.* In the course of the trial Salisbury's letter arrived, giving an account of the discovery of the Gunpowder Plot. Chichester read the letter in the presence of a large concourse of people who had assembled to watch the proceedings.

‡ Chichester to Salisbury, Oct. 29, 1606, *S. P. Irel.*

§ Chichester and the Irish Council to the Council, Dec. 5, 1605, *S. P. Irel.*

|| Chichester to Devonshire, Dec. 9, 1605, *S. P. Irel.*



hand in the petition, was sent to England to tell his own story before the Government.\*

CH. VII.

1805.

Resistance  
to the pay-  
ment of  
the fines.

The citizens who had been fined resorted to tactics which never fail to irritate a Government bent upon carrying out unpopular measures. On the plea that the Castle Chamber had exceeded its jurisdiction, they all refused to pay the fines, or to admit into their houses the officers who came for the purpose of collecting the money. Orders were given that the doors of two of the malcontents should be broken open. Next morning all Dublin was full of stories of the violent proceedings of the officers to whom this commission had been entrusted. Doors had been broken open, the privacy of families had been violated, and women and children had been terrified by this unseemly intrusion.

The next step was the empannelment of a jury who were to value the property which was to be seized in payment of the fines. The owners hoped to baffle the Government by making all their property over, by deeds of gift, to persons of their own selection. To make matters more sure, they had been at the pains to ante-date their deeds by six months. In ordinary times these deeds would at once have been set aside as fraudulent; but such was the indignation felt by the whole city, that the jury gave in a verdict to the effect that no property existed which could be touched by the Crown. The Government had recourse to their usual remedy: both the persons who had given and those who had accepted the deeds of gift were cited before the Castle Chamber, where the documents were pronounced to be fraudulent and void, and the fines were at once levied.

Not content with bringing the richer citizens into court, Chichester determined to make an attempt, by means of the shilling fine, to force the poorer inhabitants of Dublin to attend church. Indictments were accordingly served upon four hundred persons. Of these, one hundred and sixty-nine were not forthcoming in court. Of the remainder, eighty-eight conformed, whilst the number of

\* Chichester to Salisbury, April 27, 1806, *S. P. Irel.*

CH. VII. those who refused to submit, and were sentenced to pay a fine, was one hundred and forty-three.\*

1606.  
Similar  
proceed-  
ings in  
Munster.

In Munster, an attempt was made to carry out similar measures. In most of the towns, many of the poorer inhabitants were compelled to pay the shilling fine. Verdicts of this kind were generally obtained only by threatening the jury with the terrors of the Castle Chamber. The richer citizens were summoned at once before the President and his Council, and were heavily fined.

Sir P.  
Barnwall  
in London.

Meanwhile Sir Patrick Barnwall was pleading the cause of his fellow Catholics in London. His representations of the state of Ireland were probably not a little enforced by the Deputy's letters. It is plain that Chichester's experience as a persecutor was beginning to tell upon him, as experience of this kind will always tell upon natures such as his. Even whilst he was engaged in bringing the Dublin citizens before the Castle Chamber, he was struck with the state of feeling prevailing in the city. He had intelligence, by means of spies, from all parts of Ireland, and he was soon made aware that his measures, instead of drawing the people to conformity, had evoked a spirit which would have broken out into open resistance, if the country had not been completely cowed by the results of the late war.† His forces had lately been considerably reduced, and, in the spring of 1606, he was obliged to provide for the defence of a large country with no more than the numbers of a single modern regiment.‡ Six months later he began to discover that there were better means of conversion than those which had been practised in the Castle Chamber. In June he wrote to the English Council that he saw little chance of prevailing with the aged and the wealthy, though he thought that the young and the poor might yet be won. The best hope of success was to be sought for in the education of the children.§

\* Gormanston and others to Salisbury, Dec. 8, 1605. Chichester and the Irish Council to the Council, with enclosures, March 7, 1606. Davies to Salisbury, Feb. 15, 1606, *S. P. Irel.*

† Chichester to Devonshire, Jan. 2, 1606, *S. P. Irel.*

‡ April 1, 1606. Horse and foot in Ireland, *S. P. Irel.* There were only 880 foot, and 234 horse.

§ Chichester to the Council, June 2, 1606, *S. P. Irel.*

The Privy Council, having heard Barnwall's statements, considered that the proceedings of the Irish Council Chamber, which were certainly not borne out by English precedent, demanded an explanation. They accordingly wrote to request the Irish Government to state the reasons which had influenced their conduct.\*

CH. VII.

1808.

The Council asks for an explanation.

Although Chichester had begun to doubt the expediency of putting the authority of the Castle Chamber in force, he had no idea that he had done anything that was in itself wrong. The letter which was sent in the name of the Irish Council is, perhaps, the most curious monument which exists of the sentiments with which the question was regarded by men of the world in that age.

They began by treating the refusal of the aldermen to attend church as an act of disrespect to the Deputy and to the Sovereign whose authority he bore, and argued that even if there were anything in attendance upon Divine worship which did not properly come within the notice of the civil authorities, they had certainly a right to inflict punishment for disrespect to the King.

Reply of the Irish Council.

'And if,' they continued, 'it should be admitted to be an ecclesiastical action, by reason that the circumstances are ecclesiastical, yet the King, being Supreme Head in causes as well ecclesiastical as civil, his regal power and prerogative do extend as large as doth his supremacy. And the statute giveth power to civil magistrates to enquire and punish, so the same is become temporal, or, at least, mixed, and not merely spiritual.'

The King has an ecclesiastical power,

With this unlimited belief in the power of an Act of Parliament to change the nature of things, they had no difficulty in proving, satisfactorily to themselves, that the King had always exercised this supremacy in ecclesiastical matters. They seem, however, to have felt that their argument would carry them too far. They therefore hastened to qualify it by adding that, though the King's command ought to be binding in all things referring 'to the glory of God as well as to the good of the commonwealth,' yet it extended 'not to compel the heart and mind, nor the religion of the parties, but only the external action of the body.'

but only over the body.

\* Chichester and the Irish Council to the Council, Dec. 1, 1806. A great part of the letter is printed in *Notes and Queries*, 2nd Series, x. 84.

## CH. VII.

1808.

Excep-  
tions men-  
tioned.

They acknowledged that there were two cases in which the King ought not to interfere even with 'the external action of the body,' namely, either when the person was liable 'to be drawn into the danger of hypocrisy,' or when the action commanded was 'prohibited by lawful and binding authority.' They argued, however, that there was no danger of leading anyone into hypocrisy by ordering him to go to church. The other objection they met by saying that when a priest bade those who would listen to him to absent themselves from the service, he was only giving them advice, and the mere reception of advice freed no one from the duty of obeying the King.

The inter-  
ference of  
the Castle  
Chamber  
defended.

They then argued that it was necessary that the Castle Chamber should cover the deficiencies of the Irish statutes. If no English precedent could be found, it was because no such interference had been needed where the law itself was so much more perfect.

They then returned to the main point, as if they were conscious that their answers had not been altogether satisfactory. It was plain, they argued, that to come to church was commanded by the law of God, for it was impossible to admit that Parliament would command anything contrary to the law of God. He who resisted the law of God was in danger of damnation, consequently, it was 'a charitable thing, by terror of temporal punishments, to put such person out of that state of damnation.'

If these  
laws are  
resisted,  
all laws  
will be  
resisted.

After a few more remarks, they fell back on those general arguments to which most governments in the wrong have recourse when they are pressed hard. If men might disobey the law under pretence of conscience, no laws would be obeyed by any one. 'So that be the laws never so wise, wholesome, just, or godly, the common and unlearned people may discharge themselves of their duties by claiming or pretending the same to be against their erroneous or ignorant consciences, which is no other than to subject good laws to the will and pleasure not only of the wise, but of the simple.'

Chichester felt that, however desirable it might be to compel all Irishmen to attend church, it was an

impracticable scheme. On the very day on which the letter of the council was written, he sent off another to Salisbury, in which he gave expression to his own feelings. 'In these matters of bringing men to church,' he wrote, 'I have dealt as tenderly as I might, knowing well that men's consciences must be won and persuaded by time, conference, and instructions, which the aged here will hardly admit, and therefore our hopes must be in the education of the youth; and yet we must labour daily, otherwise all will turn to barbarous ignorance and contempt. I am not violent therein, albeit I wish reformation, and will study and endeavour it all I may, which I think sorts better with His Majesty's ends than to deal with violence and like a Puritan in this kind.' \*

CH. VII.

1606.

Chichester's letter to Salisbury.

Two or three months later, Salisbury received a letter from Lord Buttevant, protesting against the measures which were being taken in Munster by the President.† About the same time Chichester again advised that the Castle Chamber prosecutions, which had been discontinued for a time, should not be resumed, and that the ordinary penal laws should alone be employed.‡

Upon this the English Council wrote to recommend that a more moderate course should be taken with the recusants. This order cannot have been otherwise than agreeable to the Deputy. He had engaged himself in repressive measures, not from any persecuting spirit, but because he believed that the religion of the Catholics made them enemies to order and government. He gave way, like the Duke of Wellington in 1829, without modifying his opinion in the least, as soon as he saw that his measures had provoked a spirit of resistance which was far more dangerous to the State than the elements which he had attempted to repress.

Relaxation of the persecution.

1607.

The death of Sir Henry Brouncker, in the summer of 1607, made a change of system easy in Munster. It was found that he had left the principal men of all the towns in the province either in prison, or on bond to

Death of Sir H. Brouncker.

\* Chichester to Salisbury, Dec. 1, 1606, *S. P. Irel.*

† Buttevant to Salisbury, Feb. 11, 1607, *S. P. Irel.*

‡ Chichester to Salisbury, Feb. 20, 1607, *S. P. Irel.*

CH. VII. appear when they were summoned.\* The greater part of  
 1607. the former class were released,† and no more was heard in Ireland of Castle Chamber prosecutions for recusancy. For some little time indictments were brought under the statute, and the shilling fines were levied; but even these were gradually dropped, and, as far as the laity were concerned, this short and not very severe persecution came to an end.

Lalor,  
 Vicar-  
 General in  
 three  
 dioceses.

A trial which took place in the early part of 1607, can hardly be considered to have formed part of the persecution, which was at that time dying away. Amongst the priests who were lying in prison at the end of the preceding year, was Robert Lalor, Vicar-General in the dioceses of Dublin, Kildare, and Ferns. He obtained his release in December, by confessing that it was unlawful to hold the office which he occupied, and that the appointment of bishops rightfully belonged to the Sovereign. He also promised to obey all the lawful commands of the King.

He is in-  
 dicted  
 under the  
 Statute of  
 Præmu-  
 nire.

It soon came to the ears of the Government that he had been giving a false account of the confession which he had made. He had attempted to excuse himself to his friends by asserting that he had only acknowledged the authority of the King in temporal causes. Upon this he was indicted under the Statute of Præmunire. The Government do not seem to have been animated by any vindictive feeling against the man, but they appear to have been glad to seize an opportunity of demonstrating that he could be reached by a statute passed in the reign of Richard II., and that the claims of the Catholic priesthood had been felt as a grievance, even by a Catholic Sovereign and a Catholic Parliament. He was accordingly charged with receiving Bulls from Rome, and with exercising ecclesiastical jurisdiction. He had also instituted persons to benefices, had granted dispen-

\* Moryson to Salisbury, June 25, 1607, *S. P. Irel.*

† Fourteen were kept in prison who refused to sign a bond that they would not leave the province without leave, and that they would appear at any time when summoned before the Council, and that they would not willingly converse with any priest. The late President had laid fines to the amount of £7,000, but only £80 was actually levied. Chichester to Salisbury, Aug. 4, 1607, *S. P. Irel.*

sations in matrimonial causes, and had pronounced sentences of divorce. At his trial he attempted to draw a distinction between the King's power in ecclesiastical causes and his power in spiritual causes. He said that he had acknowledged the one, but not the other. Even if his statement had been true, it was too early, by at least two centuries, to draw this distinction. It was a distinction which had been sedulously ignored by the priests of the Church of Rome, and they could hardly expect that it would be recognised by those who sat in judgment over them. Davies, who had become Attorney-General in the course of the preceding year, made short work of this argument. A verdict of guilty was brought in, and sentence was pronounced.\* Lalor, having served the purpose for which his trial was intended, slips out of sight. It is not probable that he was very severely punished.

CH. VII.

1607.

Chichester betook himself to a more congenial mode of reforming the Church. He could not do much where such men as the Archbishop of Cashel were plundering four dioceses,† and where scarcely a parish was sufficiently endowed for the support of a minister. But he did what he could. He had his eye upon every preacher of worth and ability in Ireland, and as the sees fell vacant one by one, he was ready to recommend a successor, and to propose some scheme by which the pittance might be increased, which the last occupant had probably eked out by illegal means. His notions in the choice of bishops for Ireland may be gathered from a letter in which he informed Salisbury of the death of the Bishop of Down and Connor. He reminded him that, in choosing successors to any of the bishops, regard should be 'had as well to their ability of body and manners and fashion of life, as to their depth of learning and judgment; these latter qualifications being fitter for employments in settled and refined kingdoms, than to labour in the reformation of this.'‡ Nor were these his

Chichester's efforts  
to reform  
the  
Church.

\* *State Trials*, ii. 533.

† Note of Abuses, Aug. 4, 1607, *S. P. Irel.*

‡ Chichester to Salisbury, Jan. 14, 1607, *S. P. Irel.*

**CH. VII.** only services to the Church. He was foremost in pressing  
 1608. on the translation of the Book of Common Prayer into Irish, and as soon as the work was accomplished in 1608, he took an active part in dispersing it through the country.\*

1606. The Deputy's office was certainly not a bed of roses.  
 Affairs of Ulster. Whilst the whole of the Catholic south was openly expressing its detestation of his measures, the state of the north was such as to engage his most anxious attention. After his visit to Ulster in 1605, he had formed some hopes that the great chiefs would quietly submit to the new order of things. In the spring of the following year, he began to be doubtful of the success of any attempt to convert an Irish chief into a peaceful subject. The rule of the law had come near enough to the two northern earls to make them discontented, but not near enough to prevent them from oppressing the poor. Tyrone himself promised that he would obey the laws. Chichester, who put little faith in his promises, was only confirmed by his intercourse with him in the opinion that Ulster would never prosper until it was brought under the settled government of a President and Council.† Tyrone must have had some inkling of this opinion of the Deputy, for, not long afterwards, he wrote to the King, protesting against such an indignity, and declaring that he would sooner pass the rest of his life in exile than come under any government but that of the King himself, or of the Lord Deputy; ‡ or, in other words, that he would do anything rather than submit to any government which was near enough to reach him effectively.

Chichester  
at Mona-  
ghan.

Chichester determined to leave the results which were certain to ensue to be developed by time, and contented himself with employing the summer in a progress through the three south-western counties of Ulster. His first resting-place was Monaghan, then a village composed of scattered cottages, chiefly occupied by the soldiers of the little garrison. The inhabitants of the

\* *Harl. MS. 3544.* The translation of the New Testament had been completed in 1603.

† Chichester to Salisbury, May 10, 1606, *S. P. Irel.*

‡ Tyrone to the King, June 17, 1606, *S. P. Irel.*



surrounding country were, for the most part, members of the sept of the MacMahons. Monaghan had been made shire-ground sixteen years before, and had been divided into freeholds to be held by the principal men of the district. But the flood of rebellion had passed over the unhappy country before the new order of things had well taken root, and had swept away every trace of these arrangements. The freeholders themselves had been a particular mark for those who had found their account in the old anarchy, and such of them as did not aid the rebels were either slain or driven away. To restore order amidst the confusion which had set in was no easy task. Chichester set about it with his usual good sense and courtesy. He arranged the whole settlement so as to make as few changes as possible. Whenever he found that an alteration was necessary he laid it before the chief persons present, and succeeded in securing their full consent to his proposals. It only remained to obtain the requisite powers from England before his final sanction could be given.

CH. VII.

1608.

The necessity which existed for a change in the social condition of the country became apparent as soon as the assizes were opened. Prisoner after prisoner was brought to the bar; it was to no purpose that the most convincing evidence was tendered against them; in every case a verdict of Not Guilty was returned. The cause was soon discovered: the jurymen knew that if they returned a verdict of Guilty, they would be exposed to the vengeance of the relations of the prisoner, and that they might consider themselves fortunate if, as soon as the Deputy's cavalcade was gone, they only saw their lands pillaged and their cattle driven away.

Assizes held.

The county was plainly unfit for the exercise of trial by jury. The simplest remedy would have been to proclaim martial law at once. But such an idea never occurred to Englishmen at that time, except in cases of actual rebellion. In this case, the jurymen were visited 'with good round fines.' The next jury was terrified into giving a true verdict. We are not told what became of the persons who composed it after the Deputy was gone.

One of the customs of the county was a nuisance which Chichester was determined to abate. The prin-

## CH. VII.

1608.

The caterers of Monaghan.

cipal men of the district had long made it a habit to 'eat their beef from the English Pale.' In order to make this possible, an indispensable member of their household was a professional thief, who went by the respectable appellation of 'The Caterer.' In order to give these people a hint that such proceedings must come to an end, two of the great men, whose tables had been supplied in this irregular way, were indicted as receivers of stolen goods. They acknowledged their fault upon their knees, and were immediately pardoned.

Before leaving Monaghan, Chichester obtained the consent of the chief men of the county to the building of a gaol and a sessions house, and persuaded them to contribute £20 a year for the maintenance of a school.

Fermanagh.

In Monaghan there was some recollection of a land settlement. In Fermanagh the Irish tenures had prevailed uninterruptedly. The county was in the hands of two of the Maguires. Connor Roe Maguire had joined the English at the time of the rebellion, and had been rewarded by a grant of the whole county. When the war was concluded, Mountjoy, wishing to bribe into submission the rebel chief Coconaght Maguire, took advantage of a legal flaw in Connor's patent, and divided the county between them. No patent was, however, to be granted till freeholds had been established. Here again, Chichester was called upon to solve the knotty question of the Irish tenures. On making inquiries, he found that here, as everywhere else, two theories prevailed. The lords, with one consent, declared that all the land belonged to them; the occupants no less stoutly protested that the land was theirs, and that the lords had only a right to certain fixed dues.\* Chichester noted down in his memory the rival doctrines, and reserved them for future consideration. Davies, with characteristic readiness to grasp at any theory which made against the Irish lords, set down the case of the tenants as fully proved.

From Fermanagh the Deputy proceeded to Cavan,

\* Precisely the same opposite doctrines as those which have arisen in Russia about the land tenure during the discussions on the emancipation of the serfs. That a similar uncertainty prevails on the native theory on the subject in New Zealand will be fresh in the recollection of every one.

where he found the county in a state of unexampled confusion. A settlement of the questions connected with the land tenures had been proposed before the rebellion broke out, by which the greater part of the district was to have been allotted to Sir John O'Reilly and his immediate relations. But, if this arrangement had ever taken effect, no legal records of it had been preserved, and Sir John himself had died in arms against the Queen. On his death, his brother Philip set at nought the arrangements of the Government, and took possession, as tenant, of the whole district, giving himself the title of The O'Reilly. He did not long survive his brother, and was succeeded by his uncle Edmond, who was afterwards killed in rebellion. Upon his death no successor was appointed. Whilst the greater part of the family had taken arms against the Queen, Sir John's eldest son, Molinary O'Reilly, had served under the English Government, and had been slain fighting against his countrymen. Upon the restoration of peace, his widow, a niece of the Earl of Ormond, demanded the wardship of her son, and a third part of the land as her own dower. This claim was not supported by law, as Sir John had never taken out his patent to hold his land by English tenure, and consequently her husband had never been the legal owner of the land. Carew, however, who was the Deputy to whom her request had been made, acceded to her wishes, though he gave the custody of the land to one of Sir John's brothers. The inhabitants of the county took advantage of the confusion to refuse to pay rent to anyone. Chichester investigated the whole subject, and, as he had done in the case of the other two counties, reserved his decision till after his return to Dublin.

The results which were expected to ensue from the coming change were sketched out, by Davies, in warm, but by no means in too glowing colours. 'All the possessions,' he wrote, 'shall descend and be conveyed according to the course of the common law; every man shall have a certain home, and know the certainty of his estate, whereby the people will be encouraged to manure\*

CH. VII.  
1606.  
Cavan.

Results  
expected  
from the  
Deputy's  
progress.

\* i.e. cultivate.

## CH. VII.

1606.

their land with better industry than heretofore hath been used, to bring up children more civilly, to provide for their posterity more carefully. This will cause them to build better houses for their safety, and to love neighbourhood. And there will arise villages and towns, which will draw tradesmen and artificers, so as we conceive a hope that these countries, in a short time, will not only be quiet neighbours to the Pale, but be made as rich and as civil as the Pale itself.\*

Wicklow  
made into  
shire-  
ground.

The summer, which had been employed by Chichester in his northern progress, had also seen the conversion into shire-ground of the last southern Irish district which had maintained the independence of the English law. From henceforth the country of the Byrnes and Tooles was to be known as the county of Wicklow. On his return from Ulster, the indefatigable Davies accompanied the chief justice, Sir James Ley, on his circuit. For the first time, the new county was to be visited by the judges. They set out, without entertaining any very favourable expectations of the reception with which they were likely to meet, as it was generally understood in Dublin that the Wicklow hills were a mere den of thieves and robbers. They were destined to meet with an agreeable surprise. The people flocked around the judges in such numbers that it was a matter of astonishment to them how the desolate mountains could support such multitudes. Old and young poured forth from the glens to welcome the magistrates, who were to confer upon the county the blessings of a settled and regular law. Nor was the feeling confined to the poorer classes. The gentlemen and freeholders paid the court the highest compliment which it was in their power to bestow, by appearing in what was to them the awkward novelty of the English dress.†

Dissatis-  
faction of  
the north-  
ern chiefs.

The report of the judges, on their return, must have been highly satisfactory to the Deputy. But it was on the north that his attention was more particularly con-

\* Report of the Deputy's visit to Ulster, enclosed by Davies to Salisbury, Sept. 20, 1606. Chichester and the Irish Council to the Council, Sept. 12, 1606. Chichester to Salisbury, Sept. 12, 1606, *S. P. Irel.*

† Davies to Salisbury, Nov. 12, 1606, *S. P. Irel.*

centrated. Before he returned from his progress, a report reached him that Tyrconnel and Coconaght Maguire had been attempting to obtain a passage for France on board a Scottish vessel, which happened to be lying off the coast.\* In January, Chichester took the opportunity of a visit which Tyrone was paying in Dublin, to question him on the subject, but he was unable to elicit from him any information except that the two chiefs were miserably poor, and had expressed to him their discontent. Tyrone himself was in no good humour; he was irritated by difficulties connected with the ownership of land in his own country, which had been perpetually recurring, in one form or another, ever since his return from England. In a great measure he had only himself to blame. It was his own unwillingness to submit to the English courts which made it almost impossible to settle questions of this nature, in which he was concerned. He was now at issue with the Bishop of Derry with respect to certain lands. But his chief quarrel was with Sir Donnell O'Cahan, his principal vassal, or vriaht, as he was called by the Irish. O'Cahan's territory was of considerable extent, reaching from the river Bann to the shores of Lough Foyle. He boasted that it had been held by his ancestors for a thousand years. When a successor to The O'Neill was chosen, it was to O'Cahan that the privilege was assigned of inaugurating him by the various ceremonies which were required by the Irish custom.† When The O'Neill went to war, O'Cahan was bound to join him at the head of one hundred horse and three hundred foot, in return for which he claimed the suit of apparel which was worn by The O'Neill, and the horse upon which he rode, as

CH. VII.

1606.

1607.

Tyrone's  
quarrel  
with  
O'Cahan.

\* Deposition of Gawin Moor and William Kilrenny, of Glasgow, Aug. 12, 1606.

† After the chief had sworn to observe the customs of the tribe, and had taken his place on the stone on which the chiefs or kings were seated at their installation, the principal sub-chief presented him with a rod. Then, 'after receiving the rod, the king's shoes were taken off, and he placed his feet in the impress, in the stone, of his ancestors' feet; then, stepping forward, the sub-chieftain placed sandals on his chief's feet in token of obedience, retained one of the royal shoes as an honourable perquisite, and threw the other over the king's head as an augury of good luck.'—*Dublin University Mag.*, No. cccxxv. p. 531.

CH. VII. well as a hundred cows. O'Cahan, on the other hand,  
 1607. paid to The O'Neill a yearly rent of twenty-one cows. According to O'Cahan, when he had performed these services, he was as much the lord of his own land as any English freeholder. O'Neill, on the other hand, had never been sparing, whenever he had the power, of those various forms of exaction which weighed so heavily upon an Irish vassal.

This state of things, liable enough in itself to give rise to endless disputes, had been aggravated by the interpretation which each of the rivals had put upon the promises of the English Government. O'Cahan had followed his chief in rebellion, but had been the first to make his peace. As a reward for his desertion of the Irish cause, Mountjoy had promised him that he should in future hold his lands directly from the Crown. He actually received a patent, granting him the custody of the lands at the same rent as that which he had been accustomed to pay to Tyrone; and he had a promise that an absolute grant of them should be made out, as soon as the Government had time to attend to such matters. But, before anything was done, Tyrone had himself submitted, and, either purposely or from inadvertence, had received a grant of all the lands which had been in possession of his grandfather, Con O'Neill.

O'Cahan  
 submits to  
 Tyrone.

Upon Tyrone's return from England, his first thought was to claim O'Cahan's submission in virtue of the grant which he brought with him. He demanded that two hundred cows should at once be sent to him, and that O'Cahan should engage to pay him, in future, the same number as an annual rent, which was considered to be equivalent to a payment of £200. As a pledge for the performance of his demand, he took possession of a large district belonging to O'Cahan. At first, the unfortunate chief submitted without resistance. Tyrone was all-powerful in Ulster, and Irishmen had not yet acquired the habit of seeking for assistance from Dublin. Whatever hopes O'Cahan may have entertained in that quarter were at an end when Tyrone showed him the royal grant. He believed that he had been betrayed, and he resigned himself to his fate. He signed a paper, in which

he agreed to give way in everything. He withdrew all claims to an independent position, and promised to submit any quarrel which might hereafter arise between himself and any of his own followers to the arbitration of the Earl.\*

CH. VII.  
1607.

It was probably during the Deputy's progress in Ulster, in the summer of 1606, that a new light dawned upon O'Cahan's mind as to the support which he was likely to obtain from the Government. Rumours may well have reached him that inquiries had been made into the nature of the connection between the chiefs and their subordinates, and it must soon have oozed out that the Government was by no means desirous to allow more to the great chiefs than strict justice required.

Whatever rumours of this kind may have been abroad, they failed to make any impression on Tyrone. Scarcely had Chichester returned to Dublin, when the Earl proceeded to further aggressions. His wish was to gain over O'Cahan's followers to his own service. The method by which he hoped to obtain his object had, at least, the merit of simplicity. He drove off all the cattle which he could find in O'Cahan's district, and told the owners that they could only regain their property by breaking off all connection with his rival.†

Tyrone renews his aggressions.

O'Cahan was no longer in the humour to submit to such treatment. He brought his case at once before the Deputy. Tyrone soon discovered that his proceedings were not looked upon at Dublin with any favourable eye. In January, 1607, he paid a visit to the Deputy, and though he was received with all courtesy, he was forced

O'Cahan appeals to the Government.

\* Agreement, Feb. 17, 1606. It is signed by O'Cahan only. There can be no doubt that this, and not 1606-7, is the right date. It was probably drawn up by some priest who attended Tyrone, who, from his foreign education, would be accustomed to begin the year on the 1st of January. February 1606-7 is an impossible date, as Chichester speaks of the quarrel as already revived in his letter to Salisbury on the 26th of January, 1607. Compare O'Cahan's petition, May 2, 1607, and St. John to Salisbury, Nov. 12, 1607. It appears that the seizure of the cattle took place in the beginning of October, 1606.—Davies to Salisbury, Nov. 12, 1606, *S. P. Irish*.

† This is O'Cahan's account of the matter. Tyrone, in his answer to O'Cahan's petition (May 23, 1607), says it was done as a distress for rent. Perhaps O'Cahan refused to pay the stipulated rent of two hundred cows.

CH. VII. to consent to allow the question to be tried by the common law.\*  
1607.

In May, O'Cahan drew up his case. After detailing his grievances, he requested that he might be allowed the services of the King's Attorney. His request was complied with, and the two rivals were ordered to present themselves before the Council. It had been difficult to induce Tyrone to appear; it was not to be expected that he should comport himself in such a manner as to satisfy the Council. His proud spirit was unable to brook the degradation of being called in question for what he regarded as his ancestral rights. No sooner had O'Cahan begun to read the papers on which he rested his case, than he snatched them violently from his hand, and tore them in pieces before his face. It was with difficulty that the Deputy restrained his indignation, and contented himself with giving him a slight reproof.†

Chichester had reasons of his own for visiting so mildly this disrespectful conduct. Reports had reached him which led him to believe that an agitation was prevailing in the country which might at any time lead to an outbreak, and he was unwilling to precipitate matters by any appearance of severity.

Information of a conspiracy given to the Government.

Salisbury had received information of a plot which was in existence in Ireland from Sir Christopher St. Lawrence, a younger brother of Lord Howth, at that time serving in the Archduke's army in the Netherlands. But St. Lawrence's character for veracity did not stand high, and it was difficult to take any measures solely upon his evidence. On the 18th of May a circumstance occurred which corroborated his statement; an anonymous paper was found at the door of the Council Chamber, stating that a plan had been formed to murder the Deputy and to seize upon the Government.‡ Not long afterwards St. Lawrence, who had lately succeeded to his brother's title, arrived in Dublin. The new Lord Howth told his story to the Deputy. He said that it

\* Chichester to Salisbury, Jan. 26, 1607. *S.P. Irel.*

† Chichester to Salisbury, May 27, 1607. *S.P. Irel.*

‡ Chichester to Salisbury, May 27, 1607, enclosing a copy of the paper, *S. P. Irel.*



was intended that a general revolt should take place, in which many of the nobility, as well as the towns and cities, were to take part, and that they had received assurance of assistance from the King of Spain. The original idea had been to seize upon Dublin Castle at Easter in the preceding year, and to surprise the Deputy and Council. This was to have been the signal for a general rising. The plan was at that time relinquished, in consequence of the refusal of Lord Delvin, one of the lords of the Pale, to concur in any scheme by which Chichester's life was threatened. He declared that, sooner than the Deputy should be slain, he would reveal the whole plot to the Government. Howth added that, before he left Flanders, the Provincial of the Irish Franciscans assured him that everything was now ready in Ireland for an insurrection. The King of Spain, however, who was to furnish ten thousand foot and two hundred horse, would not be prepared till the autumn of 1608. The Provincial was himself entrusted with a large sum of money, which was to be placed in Tyrconnel's hands. Howth also declared that Tyrconnel had been present at the meetings of the conspirators. On the other hand, though he had no doubt of Tyrone's complicity, he was unable to prove anything against him. It may be doubted whether that portion of the information which related to the Spanish Government ever had any foundation except in the hot brains of a Franciscan friar. The remainder of the information was afterwards fully confirmed by the confession of Delvin.\* Chichester, however, at the time, put little confidence in a story which came from such a source. Howth himself refused to be produced in public as a witness, and there was little to be done except to use all possible means of acquiring additional information. That such a conspiracy existed was sufficiently probable. The attempt to enforce the Recusancy Laws in 1605 could not but have had the effect of disposing the lords of the Pale and the merchants of the towns to look with eagerness to a coalition with the chiefs of the north, who were dissatisfied on very different grounds.

CH. VII.

1607.

\* Confession, Nov. 6, 1607, *S. P. Irel.* The plot was imparted by Tyrconnel to Howth and Delvin at Maynooth, about Christmas 1605.

## CH. VII.

1807.

The  
lawyers  
declare  
that  
O'Cahan's  
land be-  
longs to  
the Crown.

The case  
to be  
heard in  
London.

Meanwhile Tyrone's prospects at Dublin had changed. The lawyers, with Davies at their head, had hit upon the notable idea that the lands in question belonged to neither of the disputants, but that they were, in reality, the property of the Crown. The legal quibble upon which they founded their opinion was of such a nature as to be absolutely unintelligible to ordinary minds. Proud of their discovery, the King's Counsel requested Chichester to allow them to exhibit an information of intrusion against the earl, and assured him that they would be able to bring the whole district into His Majesty's hands. The Deputy's strong good sense saved him from being led away by such a proposal. An order was made that the district should remain in Tyrone's possession till the question had been decided.\* After some delay, it was announced that the King had decided upon taking the matter into his own hands, and that the case would be heard in London.†

In August, Chichester again set out for Ulster. His intention was to carry out some, at least, of the reforms which he had planned in the course of his last visit. On his way, he had frequent interviews with Tyrone. The earl was evidently dissatisfied with the prospect of a visit to England, but was apparently engaged in making preparations for his journey.

Consternation  
among the  
conspirators.

In fact, the news that Tyrone had been summoned to England had spread consternation in the ranks of the conspirators. It was impossible for them to suppose that more was not meant than met the eye. They fancied that all their plans were in the hands of the Government, and they looked upon the order for Tyrone's journey to London as a clever scheme for separating from them the man whose presence would be most needful when the insurrection broke out. Accordingly, they soon became convinced that all chances of success were at an end, and that they might consider themselves fortunate if they succeeded in saving their lives from justice.

\* Chichester and the Irish Council to the Council, June 26, 1807, with enclosures, *S. P. Irel.*

† Chichester to the Council, Aug. 4, 1807, *S. P. Irel.*

On Saturday, the 29th of August, Chichester saw Tyrone for the last time. The earl visited the Deputy at Slane, and entered into conversation with him on the subject of his intended journey to England. When he took his leave, the downcast expression of his countenance was noticed by all who saw him. He may well have been dejected. The dream of his life was passing away for ever. Calmly and steadily the English usurper was pressing on over the land where obedience had been paid to his ancestors for generations. He could not conceal from himself that even his own dependents were growing weary of him. Nothing remained but to seek refuge in a foreign land from the hated invader, whom he could never again hope to expel from the soil of Ireland.

CH. VII.  
1607.

Tyrone  
visits Chi-  
chester  
at Slane.

He next went to Sir Garret Moore's house, at Mellifont. When he left the house, the inmates were astonished at the wildness of his behaviour. The great earl wept like a child, and bade a solemn farewell to every person in the house. On Monday he was at Dungannon, where for two days he rested for the last time among his own people. Late on Wednesday evening he set off again, accompanied by his wife, his eldest son, and two of his young children. A party of his followers guarded their chief and his family. Between him and his countess there was but little love; in his drunken bouts he had been accustomed to behave to her with the greatest rudeness. Nothing but absolute necessity had forced her to remain with him, and she had only been prevented from betraying his secrets to the Government by the care with which he avoided entrusting her with any.\* As the train was hurrying through the darkness of the night, she slipped from her horse, either being in reality overcome with fatigue, or being desirous of escaping from her husband. She declared that she was unable to go a step further. Tyrone was not in a mood to be crossed; he drew his sword, and compelled her to mount again, swearing that he would kill her, if she did not put on a

Flight of  
Tyrone.

\* When Chichester was in the North in 1605, Lady Tyrone had offered to play the spy for him.—Chichester to Devonshire, Feb. 26, 1606, with enclosures, *S. P. Irel.*

## CH. VII.

1807.

He finds  
Tyrconnel  
and  
Maguire  
at Rath-  
mullan.

more cheerful countenance. The next day, he crossed the Foyle at Dunalong, in order to pass unnoticed between the garrisons of Derry and Lifford. The Governor of Derry, hearing that the earl was in the neighbourhood, and being ignorant of his intentions, sent a messenger to ask him to dinner, an invitation which Tyrone declined. Late on Thursday night, the little band arrived at Rathmullan, on the shores of Lough Swilly, where Tyrconnel and Coconaght Maguire were waiting for them.\* Maguire, who had been acquainted with the conspiracy, had gone over to Brussels in May,† apparently in order to see whether there was any chance of obtaining assistance from the Archduke. A few weeks earlier, Rath, a citizen of Drogheda, had been sent by the two earls to ask for help from the King of Spain,‡ but had met with but a cool reception. The Spanish Government had enough upon its hands in the Low Countries to deter it from embarking in a fresh war with England. Maguire had not been long in Brussels before information reached him that their whole scheme had been discovered. It was said that the Archduke had given him a sum of money to enable him to assist in the escape of the persons implicated. With this he bought a ship at Rouen, where he met with Rath, and in his company sailed for the north of Ireland.

They set  
sail from  
Lough  
Swilly.

They had been preceded by a letter written from Brussels by Henry O'Neill to his father, which, probably, conveyed intelligence of their intended voyage.§ On the 25th of August, they cast anchor in Lough Swilly, where they remained, under pretence of being engaged in fishing, until Tyrconnel and Tyrone could be warned. On the 4th of September, the exiles went on board, and on the following day they bade farewell for ever to their native land. It is said that they were detained by a curious circumstance.||

\* Chichester to the Council, Sept. 7, 1807. Davies to Salisbury, Sept. 12, 1807, *S. P. Irel.*

† Examination of James Loach, Dec. 18, 1807, *S. P. Irel.*

‡ Examination of Thomas Fitzgerald, Oct. 3, 1807, *S. P. Irel.*

§ Confession of Sir Cormack O'Neill, Oct. 1807, *S. P. Irel.*

|| This explanation would reconcile Davies, who says that they took ship on the 4th, with Chichester, who says that they sailed on the 5th. Perhaps, however, one of the dates is incorrect.

CH. VII.  
1607.

There was an infant child of one of Tyrconnel's brothers, who was, according to the Irish custom, under the care of a foster father. It happened that the child had been born with six toes on one of its feet. A prophecy was said to have been handed down for generations, as having been uttered by one of the saints of the country, that a child of the sept of the O'Donnells would be born with six toes, who would drive all the English out of Ireland. Such a treasure was too valuable to be left behind, and the whole party waited till the child had been brought on board. The pains which were taken to secure this infant are the more remarkable, as one of Tyrone's own children was left in Ireland.

Chichester felt the full extent of the danger. He knew that if a Spanish army were to land in Ireland, it would be impossible for him to meet it with more than four hundred men, and there was little hope that he would receive any active assistance, even from those among the Irish who were ill-disposed to the cause of the two earls. Whatever could be done, he did at once. Small garrisons were thrown into the chief strongholds of the fugitives, and orders were given for the arrest of the few persons who were known to have taken part in the conspiracy.\* Commissioners were sent into the northern counties to assume the government in the name of the King, and a proclamation was issued, in which assurances were given to the common people that no harm should befall them in consequence of the misconduct of their superiors.

Precautions taken  
by the Government.

Still, the Deputy was anxious. In Ulster, as in so many other parts of Ireland, though there were a few men of wealth who dreaded the effects of a new rebellion, the mass of the population were in such extreme poverty as to welcome the prospect of war, in the hopes of gaining something in the general scramble. Already bands were formed which began to plunder their neighbours, and to infest the surrounding districts. Chichester was not only in want of men, but money, as usual, was very scarce. He tried to borrow a thousand pounds in Dublin, but the

\* Chichester to the Council, Sept. 7. Chichester to Salisbury, Sept. 8, 1607, & P. *Irel.*

**CH. VII.** merchants of the capital had not forgotten the proceedings in the Castle Chamber, and they refused to lend him a shilling.  
**1607.**

Chichester's views for the settlement of Ulster.

But amidst all these difficulties, he kept his eye steadily fixed upon the future. He saw at once what an opportunity offered itself for changing the northern wilderness into the garden of Ireland. If his plan had been adopted the whole of the future history of Ireland would have been changed, and two centuries of strife and misery might have been spared. Let the King, he wrote, at once take into his own hands the country which had been vacated by the earls, and let it be divided amongst its present inhabitants. Let every gentleman in the country have as much land as he and all his tenants and followers could stock and cultivate. Then, when every native Irishman had received his share, and not till then, let the vast districts, which would still remain unoccupied, be given to men who had distinguished themselves in the military or civil service of the Crown, and to colonists from England or Scotland, who might hold their lands upon condition of building and garrisoning castles upon them. By this means, everything would be provided for. The country would be put into a good state of defence, at little or no expense to the Government, and the Irish themselves would be converted into independent and well satisfied landholders, who would bless the Government under which they had experienced such an advance in wealth and prosperity. If this were not done, Chichester concluded by saying, no alternative remained but to drive out all the natives from Tyrone, Tyrconnel, and Fermanagh, into some unapproachable wilderness where they would be unable to render any assistance to an invading army.\*

He hopes to be able to bring the conspirators to trial.

Such projects as these required time for execution. The Deputy's immediate object, as soon as he had put the country into as good a state of defence as the smallness of the force at his disposal permitted, was to bring to trial those of the conspirators who were still in his power. His chief difficulty was the reluctance of Howth

\* Chichester to the Council, Sept. 17, 1607, *S. P. Irel.*

to give evidence in open court against his associates. It was thought that Delvin might be induced to appear as a witness, and both he and Howth were apprehended. As soon as Delvin was imprisoned, he confessed all that he knew, and his story substantially agreed with the information which had been previously obtained from Howth.\* Before any steps had been taken in consequence of this confession, Delvin made his escape from the prison in which he was confined.† For more than five months he kept beyond the reach of the Government. He explained his flight by the fear which he felt lest he should be the victim of Salisbury's revenge. His brother-in-law, Luke Plunket, had lately given information of a conversation which, if he was to be believed, had passed between them when they were last in London together. Delvin had been talking with Salisbury on the subject of certain lands, to which he laid claim. Salisbury had expressed himself unfavourably to his pretensions. No sooner had Delvin returned from this interview than he uttered in Plunket's hearing some wild speeches about taking Salisbury's life.‡ Delvin now denied § the truth of this story, but gave out that he was forced to fly, lest the fable should stand in the way of his obtaining fair treatment at his trial. He was mistaken in his estimate of Salisbury's character. Salisbury was accustomed from time to time to hear that threats had been uttered against his life, but not a single instance is known of his having allowed himself to be influenced by personal feelings in his conduct towards those from whom such threats proceeded. He did not even take the trouble of investigating the truth of Plunket's story. He immediately wrote to Chichester, assuring him that he bore no malice against Delvin, and requesting him to let the matter drop.§

At last Delvin delivered himself up, but no proceed- May 1808.

CH. VII.  
1807.

Arrest of  
Howth and  
Delvin.

Delvin's  
escape  
from  
prison.

\* Chichester to the Council, Nov. 10. Delvin's Confession, Nov. 6, 1807, *S. P. Irel.*

† Chichester to Salisbury, Nov. 28, 1807, *S. P. Irel.*

‡ Chichester to Salisbury, Dec. 10, 1807. The Chancellor of Ireland to Salisbury, Dec. 20, 1807, *S. P. Irel.*

§ Delvin to Salisbury, June, 1808, *S. P. Irel.*

## CH. VII.

1698.

All proceedings  
against the  
conspirators  
dropped.

Anxiety of  
the Govern-  
ment  
with re-  
spect to  
Ulster.

ings were taken against him. Howth, who had been sent over to England, was allowed to return to Ireland, and the other prisoners who had been apprehended after the flight of the earls were released. By that time the danger had passed over. The King of Spain showed no signs of moving. Tyrone and Tyrconnel were wandering helplessly over the Continent. Reinforcements had been pouring into Ireland in sufficient numbers to give the Deputy the consciousness of strength.

In fact, at the time of Delvin's surrender, the Government had its hands too full of more important matters to allow it to devote much time to tracing out the ramifications of an abortive conspiracy. The flight of the earls had brought with it a considerable alteration in the relations which had previously subsisted between the Government and the chiefs of secondary rank in the north. As long as Tyrone and Tyrconnel remained in Ulster it was natural that their dependents should look with hope to a Government which was likely to support them in any quarrel which might arise between them and their superiors. But as soon as the earls were gone, these men stepped at once into their place. The same fear of English interference which had driven Tyrone and Tyrconnel into rebellion now filled the minds of their vassals with anxiety. It soon became evident that nothing but the greatest prudence and forbearance on the part of the English officials would succeed in maintaining the peace in Ulster.

The  
Bishop of  
Derry.

The two Englishmen, upon whose discretion the preservation of peace principally depended, were the Bishop and the Governor of Derry. Unfortunately, at this time both these important posts were occupied by men eminently unfitted to fulfil the duties of their position. Neither of them had been appointed at Chichester's recommendation. Montgomery had obtained the bishopric through the favour of James himself. He employed himself diligently in promoting the temporal interests of the see, to the complete neglect of his spiritual duties. It may easily be supposed that, under the long supremacy of the Irish chiefs, church property had not always been scrupulously respected. The bishop,



therefore, had no difficulty in discovering that there existed a large extent of land to which he might prefer a claim, and that this land had fallen into the hands of the surrounding lords. These lands were for the most part within O'Cahan's territory, and to them the bishop stoutly asserted his right.\* To such a height did the quarrel grow between O'Cahan and the bishop that, shortly before Tyrone's flight, he allowed himself to forget his old differences with the earl, in his new exasperation against the bishop and the Government which he represented, and came to Dungannon in order to be reconciled to his old enemy. It was even said that he had intended to share his flight, and that he rode as far as to Culmore for the purpose of joining him, but that he was obliged to return, being unable to find a boat to take him across the Foyle.\*

CH. VII.

1607.

The Bishop's claims to land in the possession of O'Cahan.

The commander of the garrison at Derry, Sir George Paulett, was, if possible, still less fitted for his post. He had been recently appointed by the direction of the English Government, and it was said that he owed this favour to the employment of bribery. From the first, Chichester had regarded the choice with disapprobation.† Not only was Paulett no soldier, but his temper was beyond measure arrogant. He was soon at bitter feud with his subordinate officers. He certainly did not incur their dislike by over-strictness of discipline; even the most ordinary precautions were neglected, and, incredible as it may seem, in the midst of a population which might rise at any moment, he allowed the garrison to retire quietly to rest at night, without taking even the

Sir G. Paulett, Governor of Derry.

\* 'Sir Donnell is a man of bold spirit, altogether unacquainted with the laws and civil conversation' . . . 'and undoubtedly hath much malice within him, especially towards his neighbours; yet I am of opinion he might have been made better by example and good usage; and when this nation do once find that their neighbours aim at their lands, or any part thereof, they are jealous of them and their Government, and, assuredly, his first discontent grew from the Bishop's demanding great quantities of land within his country, which never yielded, as he saith, but a chiefly to that see: and so did the Primate's demands add poison to that infected heart of Tyrone' (Chichester to Salisbury, Feb. 17, 1608, *S. P. Irel.*)

† Depositions enclosed by Chichester to Salisbury, Oct. 1, 1609, *S. P. Irel.*

‡ Chichester to the Council, Oct. 14, 1606. Chichester to Salisbury, May 14, 1608, *S. P. Irel.*

CH. VII.

1607.

precaution of posting a single sentry on the walls. Such conduct had not escaped Chichester's observant eye. If Paulett had been an officer of his own appointment, he would, doubtless, have removed him from his post without loss of time. As it was, he was obliged to content himself with warning him against the consequences of his negligence. Unfortunately, he had to do with one of those men who never profit by any warning.

He suspects  
O'Dogharty  
of intending  
to rebel,

Such a man was not likely to be a favourite amongst his Irish neighbours. He had not been long at Derry before he was on the worst possible terms with Sir Cahir O'Dogharty, the young and spirited lord of Innishowen. About two months after the flight of Tyrone, the smouldering embers of the quarrel burst out into a flame. On the 31st of October, O'Dogharty collected a number of his followers, for the purpose of felling timber. In the state of excitement in which the country was, it was impossible for a man of O'Dogharty's mark to bring together any considerable body of men without exposing himself to suspicion. He was at that time more likely to be regarded as a man who was inclined to make a stir, as he had recently put arms into the hands of about seventy of his followers. Within a few hours, therefore, after he left his home at Birt Castle, a report spread rapidly over the whole neighbourhood that, together with his wife and the principal gentlemen of the district, he had taken refuge in Tory Island, where he intended to await the return of Tyrone. No sooner had this report reached Paulett than he wrote to O'Dogharty, pretending to be extremely grieved at the rumours which had reached him, and requesting him to come at once to Derry. As might have been expected, O'Dogharty took no notice of this communication. Paulett, after waiting a day or two for an answer, set out for Birt Castle, accompanied by the sheriff and by what forces he was able to muster. He hoped to be able to surprise the place in the absence of its owner. On his arrival he found that he had undertaken a task

and fails  
in an attempt  
to surprise  
Birt  
Castle.

\* Chichester to the Council, April 22 and May 4, 1608, *S. P. Ire.*

beyond his power. Lady O'Dogharty, instead of being, as he supposed, on Tory Island, had remained quietly at home, and refused to open the gates. His force was not sufficiently large to enable him to lay siege to the place, and there was nothing for it but to return to Derry, and to write an account of what had passed to the Deputy. At the same time he was able to inform him that O'Cahan had been lately showing signs of independence, and had been driving the Bishop's rent-gatherers off the disputed lands.\*

CH. VII.  
1607.

Although O'Dogharty was unwilling to trust himself in Paulett's hands, he did not refuse to present himself before Chichester at Dublin. The Deputy, who at this time looked with suspicion upon all the northern lords, listened to his story, but it was evident that he did not altogether believe it. Having no proof against him, he allowed him to return, after binding him in recognizances of £1,000 to appear whenever he might be sent for. Lord Gormanston and Sir Thomas Fitzwilliam became securities for his appearance.†

O'Dogharty defends himself to Chichester.

Shortly after his return, O'Dogharty was called upon to act as foreman of the grand jury which was summoned to Lifford, in order to find a bill for high treason against the earls and their followers. The jury consisted of twenty-three persons, thirteen of whom were Irish. They do not seem to have shown any backwardness, though at first they felt some of those scruples which would naturally occur to men who had lived under a totally different system of law from that in the administration of which they were called to take a part. Having expressed a doubt as to the propriety of finding a bill against the followers, some of whom might only

Assizes at Lifford,

\* Hansard to [Chichester?] Nov. 1 and Nov. 6, 1607. O'Dogharty to Chichester, Nov. 4, 1607. Paulett to Chichester, Nov. 4, 1607, *S. P. Irel.* That O'Dogharty was innocent of any intention to rebel was believed by Hansard, who, as Governor of Lifford, was likely to be well informed. Chichester, too, speaks of this matter in a letter to the Council on the 22nd of April, as one 'wherein all men believed he had been wronged.' Besides, if he had intended treason, Neill Garve would certainly have known of it; and if anything had passed between them, some evidence of it would surely have been discovered when witnesses were collected from all quarters at a later date.

† Chichester to the Council, Dec. 11, 1607, *S. P. Irel.*

**CÆ. VII.** have acted under coercion, they were told that the  
**1607.** indictment with which alone they were now concerned was only a solemn form of accusation, and had nothing of the nature of a final sentence. Opportunity would afterwards be given to such persons to clear themselves, if they could. The jury were satisfied with this answer, but wished to know how they were to find the earls guilty of imagining the King's death, as there was no evidence before them that either of them had ever had any such intention. They were then initiated into one of the mysteries of the English law, and were told that every rebel conspired to take the King's crown from him, and that it was evident that a man who would not suffer the King to reign, would not suffer him to live. Upon this they retired, and within an hour brought in a true bill against the accused.

and at  
Strabane.

The judges then crossed the river to Strabane, in the county of Tyrone, where a true bill was again brought against Tyrone, on the charge of having assumed the title of The O'Neill.\* He was also found guilty of murder, having executed nineteen persons without any legal authority. After this the judges told the grand jury that they should thank God for the change which had come over the country. They were now under the King's protection, who would not suffer them to be robbed and murdered, and who would not allow anyone to be imprisoned without lawful trial. To this address they all answered with cries of 'God bless the King.'† A few weeks afterwards process of outlawry was issued against the fugitives, with a view to their attainer.‡

O'Cahan  
submits his  
conduct to  
investiga-  
tion.

During these months attempts were repeatedly made to induce O'Cahan to submit himself to the authority of the English officers. It was only after the Deputy had prepared a small force to march into his country, that he submitted, and was sent to Dublin, where he was kept,

\* This charge was only supported by one document, in the body of which he was styled The O'Neill, though in his signature he used the name of Tyrone.

† Davies to Salisbury, Jan. 6, 1608, *S. P. Irel.*

‡ Chichester to the Council, Feb. 11, 1608, *S. P. Irel.*

at his own request, till he could disprove the charges brought against him.

If O'Dogharty had been left to himself, he might possibly have remained a loyal subject. Unluckily, he fell under the influence of the wily and unscrupulous Neill Garve, whose lands lay to the south of his own territory. Neill Garve had never forgiven the Government for preferring Rory O'Donnell to himself, and he was now more than ever exasperated at the discovery that the Deputy showed no signs of any desire to obtain for him the earldom which was once more vacant. He now made it his business to stir up the excitable nature of O'Dogharty,\* who was vexed at the insult which he had received from Paulett, and was displeased that Chichester had thought it necessary to require him to give bonds for his appearance. At the same time, Phelim Reagh, O'Dogharty's foster-father, poured oil upon the flame: he had his own injuries to complain of, having met with harsh treatment from the judges at the last assizes.†

By the middle of April these evil counsellors had so far wrought upon the high spirit of this ill-advised young man as to persuade him to throw himself headlong upon the English power. The most extraordinary thing about the enterprise was, that no plan whatever was formed as to the measures to be taken in the event of success. Probably all that O'Dogharty thought of was the prospect of immediate revenge upon Paulett. Neill Garve seems to have been filled with confidence that whatever happened, his wits would succeed in securing something for himself in the general confusion. For the present, he contented himself with informing O'Dogharty that if he succeeded in surprising Derry, he would himself make an attempt upon Ballyshannon.

The practised eye of Hansard, the Governor of Lifford, perceived that something unusual was in preparation. He, accordingly, put the town in a good state of defence,

CH. VII.

1608.

Intrigues  
of Neill  
Garve.Caution  
sent to  
Paulett.

\* These and other statements relating to Neill Garve's proceedings rest upon the depositions enclosed in Chichester's letter to Salisbury, Oct. 31, 1609, *S. P. Irel.*

† Dillon to Salisbury, April 25, 1608, *S. P. Irel.*

CH. VII. and at the same time sent a warning to Paulett, to  
 1808. which, it is needless to say, not the slightest attention was paid.\*

O'Dogharty's plan for surprising Culmore.

The chief obstacle in the way of the conspirators was the difficulty of obtaining arms. Since Chichester's proclamation for a general disarmament, it was almost impossible to procure weapons in quantities sufficient to give to a rebellion the chances of even a momentary success. O'Dogharty, however, knew that arms were to be obtained at the fort of Culmore, which guarded the entrance to the Foyle. Such a prize as this could only be gained by stratagem. On the 18th of April, therefore, he invited Captain Hart, the Commander of the fort, to dine with him at his house at Buncrana. He complained that the ladies of Derry looked down upon Lady O'Dogharty, who was in consequence deprived of all society suitable to her rank; he hoped therefore that Hart would bring his wife and children with him. The invitation was accepted. As soon as dinner was over O'Dogharty led his guest aside, and, after complaining of the Deputy's conduct towards him, said that as Chichester would not accept him as a friend, he should see what he could do as an enemy. He threatened Hart with instant death unless he would surrender the fort. Hart at once refused to listen to such a proposal. He stood firm against his wife's entreaties, which were added to those of Lady O'Dogharty. His host told him that his wife and children should all perish if he persisted in his refusal, and offered to swear that if the fort were delivered to him, not a single creature in it should be hurt. Hart, like a sturdy Englishman as he was, answered, 'that seeing he had so soon forgotten his oath and duty of allegiance to' his 'Sovereign Lord the King,' he 'should never trust oath that ever he made again.' He might hew him in pieces if he would, but the fort should not be surrendered. Upon this O'Dogharty took Hart's wife aside, and persuaded her without

\* The details of the sack of Derry are given by Chichester to the Council, April 22, and Bodley to —? May 3. See also the reports of Hart and Baker, enclosed by Chichester to the Council, May 4, 1808, *S. P. Irel.*

difficulty to second him in a scheme which would enable him to get possession of the fort without her husband's assistance. CH. VII.  
1808.

Towards the evening he set out with about a hundred men, and arrived after nightfall at Culmore. As soon as he came close to the gate he sent the lady forward with one of his own servants. She cried out, according to her instructions, that her husband had fallen from his horse and had broken his leg, and that he was lying not far off. Upon this the whole of the little garrison rushed out to help their captain. Whilst they were thus employed, O'Dogharty quietly slipped in at the gate, and took possession of the place. Surprise of  
Culmore.

Having thus obtained the arms of which he was in need, he set off for Derry. When he arrived at the bog by which the town was separated from the adjoining country, he divided his forces, and put one part under the command of Phelim Reagh. This division was to assault the principal fort which lay upon the hill, whilst O'Dogharty himself was to direct the attack upon a smaller fortification at the bottom of the town in which the munitions were stored. Their only chance of success lay in their finding the garrison off their guard, as there were in the town a hundred soldiers, and an equal number of townsmen were capable of bearing arms. It was about two in the morning when the attempt was made. Phelim Reagh succeeded in effecting an entrance, and at once made for Paulett's house. The Governor was roused by the noise, and succeeded in making his escape to the house of one of the other officers, where he was finally discovered and put to death. After some fighting, all resistance was overcome in this part of the town, and the buildings in the fort were set on fire. At the lower fort O'Dogharty met with still less difficulty. Lieutenant Baker, who had the command, after he had been drawn from the works, collected about one hundred and forty persons, men, women, and children, and took possession of two large houses in which he hoped to be able to hold out till relief reached him. He even made a fruitless attempt to regain the post which he had lost. After twenty-four hours, provisions running short, and Capture of  
Derry.

**CH. VII.** O'Dogharty having brought up a gun from Culmore, he  
 1608. surrendered, upon a promise that the lives of all who  
 were with him should be spared.

Neill  
Garve's  
disap-  
pointment. Neill Garve had sent sixteen of his men to join in the  
 attack. As soon as the place was taken, O'Dogharty,  
 according to agreement, sent him a part of the spoil.  
 Neill Garve refused to take it. What he was anxious to  
 obtain was a share of the arms, and he was disappointed  
 that none had been sent.

The garri-  
son at  
Lifford re-  
inforced. News of what had occurred soon spread over the  
 country. The little garrison of Dunalong at once retired  
 to Lifford, and their example was followed by the Scottish  
 colony, by which Strabane was occupied. With this  
 assistance Hansard made no doubt that he would be able  
 to maintain himself at Lifford against any force which  
 O'Dogharty could send against him.

Neil Garve  
makes pro-  
posals to  
the Go-  
vernment. Whether Neill Garve was really offended with  
 O'Dogharty, or whether he was only anxious to keep  
 well with both parties, it is impossible to say. It is  
 certain that the first thing which he did was to sit down  
 and write to Chichester, requesting him to give him the  
 whole of the county of Donegal. To this modest demand  
 Chichester replied by advising him to show his loyalty  
 at once, and to trust to him for the proper reward after-  
 wards.

Wingfield  
sent into  
Ulster. The Deputy saw the necessity of crushing the  
 rebellion before it had time to spread. He at once  
 despatched the Marshal, Sir Richard Wingfield, into  
 Ulster, with all the troops which he was able to muster  
 at the moment, and prepared to follow with a larger force.  
 On Wingfield's approach, O'Dogharty perceived that the  
 game was up, unless a general rising could be effected.  
 He set fire to Derry, and, leaving Phelim Reagh at Cul-  
 more with thirty men, and throwing a garrison into Birt  
 Castle, he himself retired to Doe Castle, a fastness at the  
 head of Sheep Haven.

O'Dogharty  
retreats  
to Doe  
Castle.

To his honour it must be said, that the prisoners were  
 all released according to promise. Excepting in actual  
 conflict, no English blood was shed in the whole course  
 of the rebellion.

On the 20th of May, Wingfield arrived at Derry, and,



finding it in ruins, pushed on to Culmore. In the course of the night Phelim Reagh set fire to the place, and, having embarked in two or three boats all the booty he had with him, made his way to Tory Island. Wingfield proceeded to subject Inniskowen to indiscriminate pillage.\* The cattle and horses of the unfortunate inhabitants were carried off, and were given to the townsmen of Derry, in compensation for their losses.

Neill Garve, seeing that O'Dogharty was unable to make a stand against the English, thought it was time to submit to the Government. He accordingly came into Wingfield's camp, upon receiving a protection from the consequences of his past acts. He had not been long in the camp before he sent to O'Dogharty, assuring him that he need not despair, as the forces sent against him were by no means strong. He told him that he had himself only submitted to necessity, and that he was in hopes that arms would be put into the hands of himself and his followers, in which case he would take the earliest opportunity of deserting.

Wingfield was only waiting for munitions to lay siege to Birt Castle. In the meanwhile he received intelligence which gave him hopes of capturing the rebels. He heard that O'Dogharty had taken refuge with his followers in a place in the midst of a bog, from which there was hardly any exit. He accordingly made his preparations for an attack, with the full expectation that, though his soldiers would have to carry an exceedingly difficult position, it would be impossible for a single man of O'Dogharty's band to escape. To his surprise, when the morning dawned on which he had intended to make the attack, the rebels were no longer to be found. It was afterwards discovered that Neill Garve had sent information to O'Dogharty of the plan of the English commander.

Not long afterwards the traitor left the camp, and betook himself to unadvised courses, which quickly drew upon him the suspicions of the Marshal. He took great numbers of O'Dogharty's followers under his protection,

CH. VII.

1608.

Inniskowen plundered by Wingfield.

Neill Garve submits to the Government, but communicates with O'Dogharty.

Attempt to capture O'Dogharty.

Frustrated by Neill Garve's treachery.

Arrest of Neill Garve.

\* Enclosures in Chichester's letter to the Council, May 4, 1608, *S. P. Irel.*

CH. VII.  
1608.

O'Do-  
gharty de-  
feated and  
slain.

and plundered those who had submitted to Wingfield. Nor did he stop here. He presumed himself to summon the inhabitants of the whole county to join him, as if he had been lord of the entire inheritance of the O'Donnells.\* He commanded that all men who had ever carried arms should, when they answered his summons, provide themselves with arms under pain of a fine. This was too much for the Marshal's patience. His former treachery was now beginning to ooze out : he was, therefore, immediately arrested and sent a prisoner to the Deputy.

O'Dogharty's case was now hopeless. He was unable to cope with Wingfield, and Chichester's forces would soon be added to those of the Marshal. One desperate attempt he made to break through the toils, perhaps in the hope of exciting a more widely spread insurrection. With four hundred men he made his way across Ulster, and surprised and set fire to the little town of Clinard, in the neighbourhood of Armagh. But here he found that his way was barred by Chichester's cavalry, and there was nothing to be done but to attempt a hopeless retreat to Doe Castle, the only place where it was any longer in his power to obtain even a temporary shelter, as Birt Castle, in which his wife, his daughter, and his sister were, had fallen into the hands of the English.† It was all to no purpose : he never reached the place of safety. On the 5th of July, as he was approaching Kilmacrenan, a small place about six miles to the north-west of Letterkenny, he found Wingfield stationed across his path. The English immediately commenced the attack, though their numbers were considerably inferior to his.‡ The Irish were completely routed, and O'Dogharty himself was slain. It was better so, than that he should have met the fate of a traitor. Nothing good could ever have come of his rash and ill-timed rebellion. But he was not a mean and treacherous enemy, like Neill Garve. Under

\* Bishop of Derry to Chichester, June 15, 1608, *S. P. Irel.*

† Chichester and the Irish Council to the Council, July 2, 1608, *S. P. Irel.*

‡ Chichester to the Council, July 6, 1608. If the numbers are correctly given, O'Dogharty must have had seven hundred men. As he marched out with four hundred only, he must have gathered followers on his way. The English numbers are given at three hundred.

other circumstances he might have lived a useful, and even a noble, life. He had set his life upon the throw; but it is impossible not to feel compunction in reading the Deputy's letter, in which he announces that the body of the man who had spared the prisoners of Derry had been taken, and that he intended to give orders that it should be quartered, and that the fragments should be set up on the walls of the town where he had shewn an example of mercy to a conquered enemy.

Of his followers, some of those who could not escape were hanged at once by martial law, and some were reserved for trial.\* Amongst the latter were Phelim Reagh and one of O'Cahan's brothers, both of whom were executed. Two days after O'Dogharty's defeat, his brother-in-law, Oghie Oge O'Hanlon, went into rebellion with a hundred men, but was speedily overpowered. One sad scene has been handed down to us from the history of this abortive attempt at insurrection, such as must often have occurred in these horrible Irish wars. A poor woman, we are told, 'was found alone by an Irish soldier, who . . . . stripped her of her apparel,' and left her 'in the woods, where she died the next day of cold and famine, being lately before delivered of a child.'†

Neill Garve was not brought to trial till June 1609. The evidence against him was irresistible; but his neck was saved by the old difficulty. Before the verdict was given, it came to the knowledge of the Court that the jurors had sworn that they would never convict the lord of their own country. Upon this an excuse was found for stopping the trial;‡ and, after some consideration, the prisoner was sent to England, together with O'Cahan. They were there detained in prison, in spite of their complaints of the illegality of the treatment which they received.

When O'Dogharty's rebellion had been crushed, all further possibility of resistance was at an end. The English Government had only to consider what use they

CH. VII.  
1608.

O'Hanlon  
rebels.

Trial of  
Neill  
Garve.

The jury  
will not  
convict.

Neill  
Garve and  
O'Cahan  
sent to  
England.

Import-  
ance of  
the deci-  
sion of the

\* Chichester to the Council, Aug. 3, 1608, *S. P. Irel.*

† Davies to Salisbury, Aug. 5, 1608, *S. P. Irel.*

‡ Davies to Salisbury, June 26, 1609, *S. P. Irel.*

## CH. VII.

1609.

Govern-  
ment on  
the settle-  
ment of  
Ulster.

would make of their conquest. It was necessary to take some steps for the settlement of Ulster. On the spirit in which the new system was introduced the future prospects of Ireland would depend for centuries. The temper of the Irish population was such as to promise well for the success of any experiment which might be introduced by a ruler who combined a practical knowledge of the circumstances of the case with a statesman-like appreciation of the wants of the people with whom he had to deal. The recollection of the harshness of English rule, indeed, still continued to form a barrier between the Government and a great part of the inhabitants of Ireland, and to hinder any sudden loosening of the ties by which the people were bound to their chiefs. But signs were not wanting that those ties were no longer what they once had been ; and though the task would have been one of no slight difficulty, it is probable that with twenty or thirty years of judicious management, a spirit of loyalty to the Crown would have sprung up to take its place. One step, at least, might have been taken by the English Government which would almost have guaranteed success. The people of Ireland could not have wished for any better fortune than that the whole question of their future destinies should be left in the able hands of Sir Arthur Chichester.

## CHAPTER VIII.

## THE GREAT CONTRACT.

THOUGH the Session of 1607 had come to an end without any direct collision between the Crown and the Commons, yet there was enough in the state of affairs to make the Government feel somewhat anxious. That anxiety was not likely to decrease, when the news arrived from Ireland of the flight of Tyrone and Tyrconnel. One of the first measures taken by the Council was to see that the country was in a proper state of defence. Though no immediate danger was apprehended, it was always possible that Spain might be tempted to a renewal of hostilities by the recurrence of an outbreak in Ireland. In England, ever since the death of Elizabeth, the yearly musters, always irksome to the people, had been neglected. A letter from the Council directed that the practice should be resumed, and that all persons capable of bearing arms should present themselves on certain days before the proper officers. These officers would see that they were in possession of the arms which were required, according to their rank and wealth, and would select the fittest men for the trained bands, who were to be regularly drilled for the defence of the country.\*

CH. VIII.

1607.

The  
musters  
resumed.

If Tyrone's flight had warned the Council to provide for the safety of England, the rebellion of O'Dogharty was still more decided in its effect upon the financial

Expense  
of the  
army in  
Ireland.

\* The Council to the Lieutenant of Hertfordshire, June 30, 1608, *S. P. Dom.* For particulars concerning the musters, see Grose's *Military Antiquities*, i. 79, and *Add. MS.* 5496.

**CH. VIII.** arrangements of the Government. For some years it  
**1608.** would be necessary to keep up a considerable force in Ireland, the maintenance of which would be a constant drain upon the English Exchequer.\*

**Death of** When the news of O'Dogharty's rebellion arrived, the  
**Dorset.** Lord Treasurer was no more. On the 19th of April, the very day on which English and Irish were struggling for the mastery within the walls of Derry, Dorset died suddenly in his place at the council table. After the shortest possible delay, Salisbury was appointed to the vacant office. He took upon himself the burden of the disordered finances, without relinquishing the Secretaryship. Northampton, who was his only possible rival, was compensated by promotion to the post of Lord Privy Seal, a position which brought an increase to his income, if it did not carry with it much additional political influence.

**He is suc-  
ceeded by  
Salisbury.**

**North-  
ampton  
Privy Seal.**

Salisbury's appointment gave satisfaction to all who had not profited by the previous confusion.† It was generally expected that under his able management great changes would take place.

**Financial  
difficulties.**

His first thought was to attempt to provide means for meeting the growing demands of the Treasury. During the year which had ended at Michaelmas 1607, the expenditure had risen to the amount of little less than £500,000, exclusive of money employed in the repayment of debt. Such a sum was scarcely less than that which Elizabeth had required in the days when all Ireland was in rebellion from Cape Clear to the Giant's Causeway, and when the whole of the Spanish monarchy was swarming with armies which thirsted after her destruction. Unfortunately for James, the ordinary revenue by which these claims were to be met can hardly have exceeded £320,000, and even with the addition of the money derived from the Parliamentary grant, it only reached £427,000, leaving a deficiency of £83,000 to be met by wars or by the sale of Crown property.‡ The

\* In the year ending at Michaelmas 1607, the money sent over to Ireland was £34,000. In the three following years the similar payments out of the Exchequer were £98,000, £71,000, and £63,000 respectively.

† Neville to Winwood, May 8, 1608, *Winc.* iii. 398.

‡ These calculations are based upon the tables given in Appendix VIII. And upon the Pells Declarations in the *P. R. O.*

debt at this time was not much less than £1,000,000.\* CH. VIII.  
1608.

It was plain that the King's finances could not long continue in this state without producing the most disastrous consequences, and yet it was difficult to see from what quarter a remedy was to be expected. It was at least certain that if Parliament were called together, it would refuse to vote another subsidy till the whole of the existing grant had been levied, which would not be the case before the spring of 1610.

Under these circumstances, Salisbury determined to avail himself of the resources which had been so temptingly offered to him by the recent judgment in the Exchequer. The idea was not brought forward for the first time. In the preceding autumn, upon the first news of the flight of the earls, Dorset had proposed to meet the expenses of the army in Ireland by laying fresh impositions upon merchandise. At that time the Council had refused to consent to such a measure, and in the hope that the emergency was merely temporary, they had preferred to borrow the money which was absolutely required at the time. In this view of the case Salisbury had concurred. When, however, the fresh outbreak in Ulster convinced him that the Irish expenditure was unlikely to be much diminished for some considerable time, he made up his mind to use the powers which were, as he believed, vested in the Crown. Those powers had been acknowledged by a legal judgment in the proper court for deciding such questions, and when that judgment had been made known to the House of Commons, not a single voice had been raised against it.

New impositions.

In order that the new impositions might be as little burdensome as possible, the Treasurer summoned a meeting, at which the principal merchants of the city were present, as well as several of the officers of the Custom House. The result of their deliberations was a book of rates, which was published on the 28th of July. Care was taken to lay the new duties as much as possible either upon articles of luxury, or upon such foreign manufactures as entered into competition with the pro-

Meeting of merchants.

\* Account of the King's debts, Jan. 8, 1610, *S. P. Dom.* lii. 6.

**CH. VIII.** ductions of English industry. On the other hand, some  
 1608. of the existing duties, which were considered by the  
 merchants to be too high, were lowered. Amongst  
 these, the imposts on currants and tobacco were con-  
 siderably reduced.\*

**Reduction** The produce of these impositions was estimated at  
**of the debt.** £70,000.† Having thus obtained an augmentation of  
 revenue, Salisbury proceeded to deal with the debt.  
 Every possible effort was made to bring money into the  
 Exchequer. The payment of debts due to the Crown  
 was enforced, lands were sold, and the officials were  
 required to be more vigilant than ever in demanding the  
 full acquittal of all payments to which the King could lay  
 claim. Something, too, was brought in by an aid, which,  
 after the old feudal precedent, was levied for the knight-  
 ing of Prince Henry. By these and similar measures,  
 which must often have been felt to be extremely  
 severe, Salisbury contrived to pay off £700,000, leaving  
 at the commencement of 1610 a sum of £300,000 still  
 unpaid.‡

**Standing** Still the difficulty of meeting the current expenditure  
**deficit.** continued to make itself felt. Such had been the exer-  
 tions of Salisbury, that, at the beginning of 1610, it was  
 calculated that the ordinary income derived from non-  
 Parliamentary sources which, four years previously, had  
 been only £315,000, had reached the amount of £460,000.  
 Such a sum, though it would have been more than ample  
 for the wants of Elizabeth, was too little for James. His  
 regular expenses were estimated to exceed this sum by  
 £49,000, and his extraordinary annual payments were  
 calculated to amount to at least £100,000 more. Thus  
 it had become evident, before the end of 1609, that, unless  
 Parliament could be induced in time of peace, to make  
 up the revenue to at least £600,000, a sum considerably  
 exceeding that which had been raised in time of war,  
 it was only by the most unsparing retrenchment that

\* *Parl. Deb.* in 1610 (Camden Society), p. 155, and Introduction, p. xviii.

† *Parl. Deb.* in 1610, Introduction, p. xx.

‡ Besides meeting the deficits of 1608 and 1609, amounting together to  
 rather more than £500,000, *S. P. Dom.* lii. 6.



the King would be able to avoid a hopeless bankruptcy.\* CH. VIII.

If Salisbury had ever entertained any hope of reducing the expenditure, that hope must long have been at an end. James, indeed, was anxious to retrench, but he was not possessed of the strength of will which alone could have enabled him to dismiss an importunate petitioner; and even if he had refrained from granting a single farthing to his favourites in addition to the sums to which he was already pledged, he would not have saved much more than a quarter of his yearly deficit. What was necessary was, that he should reduce his household expenditure by carrying economy into his domestic arrangements, and that he should cease to squander large sums of money upon useless purchases of plate and jewels. By degrees he might have lessened the charges upon the pension list, which had grown so enormously since his accession.†

1609.  
Difficulty  
of re-  
ducing  
the ex-  
penditure.

The most striking evidence of the want of success with which James's attempts to economise were usually attended, is afforded by the results of an order which he issued, in the sanguine hope of being able to put a check upon his own profusion. In May 1609, he signed a document‡ by which he entailed upon the Crown the greater part of the lands which were at that time in his possession. He engaged not to part with them without the consent of a certain number of the members of the Privy Council. A few months before he had made a declaration that in future he should refuse to grant away

Entail of  
the Crown  
lands.

\* *Parl. Deb.* in 1610, Introduction, pp. xiii. and xix.

† A glance at the tables in Appendix VII. will show how little truth there was in the theory, which was put forward by Dorset and Salisbury alike, that James's increase of expenditure was caused by state necessity. The ordinary peace expenditure of Elizabeth in 1588-9 was, in round numbers, £222,000. Add to this the £48,000 which the Queen, the Princes, and the Princess cost James in 1610, and the excess of £34,000 which he sent over to Ireland, and we have an amount of £302,000. Add twenty per cent. for the moderate extravagance which might be permitted after Elizabeth's parsimony, and we have £362,000, leaving a surplus of £60,000 from the revenue of 1610—a surplus which would have enabled the King to dispense with the new impositions altogether, and yet to keep in hand £20,000, which, added to what he would have obtained from the Great Contract, would have been far more than enough to meet all reasonable extraordinary expenses.

‡ Indenture, May 8, 1609, *S. P. Dom.* xlvi.

**CH. VIII.** any portion of his revenues, excepting out of certain  
**1609.** sources which were expressly named.\* But this measure, admirable in itself, was insufficient to remedy the evil. James had forgotten to bind his hands, so as to prohibit himself from giving away ready money; and the consequence was, that whereas before the promulgation of the King's declaration, the courtiers who were anxious to fill their pockets usually asked for an estate, they afterwards asked directly for money. That they did not find any insuperable obstacles to contend with, is shown by the fact, that although the King ceased to grant land, the free gifts paid out of the Exchequer showed no tendency to diminish.

Probable  
opposition  
in Parlia-  
ment

on the im-  
positions ;

on the ec-  
clesiastical  
system.

These things, though they received no official publicity, were well known to the nation. Salisbury, therefore, if he watched the temper of the classes whose representatives he was about to meet, may well have felt anxious as to the way in which his propositions would be received. Nor was it only the prodigality of the King which was likely to awaken opposition in the House of Commons. It could hardly be doubted that the impositions would be called in question, now that they had been raised so far above the modest sum which had caused so much dissatisfaction four years before.

Nor were money questions the only ones which were likely to attract the attention of the House of Commons. The members were the same men as those who, in 1604, had expressed their strong disapprobation of the ecclesiastical system to which James was so attached, and nothing had happened in the meantime to change their opinions on the subject. Indeed, the question of the authority of the ecclesiastical courts had been brought prominently before the country, by a champion who had risen unexpectedly in the ranks of the common law judges. Coke had no sooner taken his place upon the bench than he sought to animate his colleagues with his own spirit of opposition to all who in any way interfered with the preeminent jurisdiction of the courts of common law. The quarrel had indeed commenced before

\* King's Declaration, Nov. 1608, *S. P. Dom.* xxxvii. 74.

he was raised to the bench. It had frequently happened that the common law judges had issued prohibitions to the Ecclesiastical Courts, in order to compel them to proceed no further in the causes before them, till they had proved to the satisfaction of the judges that the matter in hand was really one which ought to fall within their jurisdiction. The clergy naturally resisted this claim, and argued that their courts were independent of any other, and that their jurisdiction flowed directly from the Crown.

CH. VIII.  
1605.

Towards the end of 1605, Bancroft presented a series of complaints to the King against these proceedings of the judges. In the course of the following year, the judges, who had now the assistance of Coke's stores of knowledge, answered the complaints one by one.\* Both parties were, no doubt, pleading their own cause, and feeling, as they both did, the weakness which resulted to their case from this, they were ready to appeal to a third party for support. But whilst Bancroft would have placed the power of granting prohibitions in the hands of the Court of Chancery, the judges, who were well aware that that court was far more subject to political influences than their own, at once declared that they were ready to submit to an Act of Parliament, but that they declined to surrender their immemorial rights to any lesser authority. It is this appeal to Parliament which raises the dispute from a mere quarrel about jurisdiction to the dignity of a constitutional event. Whilst the clergy were content to rely upon the Sovereign, the interpreters of the law entered boldly into alliance with the nation.

Bancroft's  
Articuli  
Cleri.

It was shortly after the prorogation in 1607 that a case occurred which drew the attention of all who were interested in ecclesiastical affairs to the question of the prohibitions. Fuller, who, as a member of Parliament, had always been the first to give expression to the fears and wishes of the Puritans, had frequently been employed as a lawyer to plead the cause of those who were endangered by opinions which they held in common with

Fuller's  
case.

\* 2nd Inst. 601.

**CH. VIII.** himself. In this way he had been retained to demand  
**1605.** the interference of the Court of King's Bench in the case of the two persons who had suffered hard usage at the hands of the High Commission.\* The first of these, Thomas Lad, had been brought before the Chancellor of the diocese of Norwich on the charge of having attended a conventicle. According to Fuller's account, he had been living with one of the suspended ministers, named Jackler. He had been accustomed to join the master of the house on Sunday evenings in repeating the sermons which he had heard at church. Though it was not stated by Fuller, it is not improbable that they added observations of their own, nor is it unlikely that some of their neighbours were occasionally present at their meetings. On being brought before the Chancellor, Lad was compelled to answer upon oath to the questions which were put to him, and was finally sent up to Lambeth upon a charge of perjury, as having given false information at Norwich. He was again required to swear that he would answer truly to such questions as might be put to him. This time he refused to take the oath, unless the questions were previously shown to him. He was, in consequence, thrown into prison, where he remained till he appealed to the common law judges.

**Case of  
Lad,**

Fuller's other client, Maunsell, was imprisoned at Lambeth for having taken part in the presentation of a petition to the House of Commons, and for refusing to take the oath, when brought up for examination.

**and of  
Maunsell.**

Fuller, in defence of his clients, went at once to the root of the matter. He boldly denied that the Court of High Commission had any right whatever to fine or imprison. The statute of Elizabeth,† indeed, under which it acted, had been drawn up with a singular want of precision. On the one hand, it had restored to the Crown the ancient jurisdiction in ecclesiastical matters, and had given it a right of correcting heresy and schism; whilst, on the other hand, it had repealed all the Acts by which the Bishops had formerly been empowered to punish heresy and schism. It was therefore not difficult to

**Fuller's  
argument.**

\* *The Argument of Master Nicholas Fuller in the Case of T. Lad and R. Maunsell, 1607.*

† 1 Eliz. cap. i.

argue, that the intention of the legislature had been to take away from the Ecclesiastical Courts the right of inflicting fine and imprisonment altogether. They would still be able to correct heresy by excommunicating the offender, but they would be obliged to apply to the temporal courts to inflict punishment upon the excommunicated person. It is possible that Fuller's interpretation may have been the correct one, though it was not the one which was accepted by the judges at the time.\* At all events, the language of the statute was such as to admit of argument on either side.

We do not know what decision the judges gave in the case before them. Fuller himself was summoned before the High Commission, on the ground that he had slandered the King's authority, by questioning, in the course of his argument, the power of the Commission. He was required to take an *ex officio* oath that he would answer any question which might be put to him. He refused to do so, and applied to the Court of King's Bench for a prohibition in his own case. The judges granted his request, and ordered the Ecclesiastical Court to refrain from meddling with him on account of anything which he had said in the course of the exercise of his duty in their presence. They stated, however, that if the Commission could accuse him of heresy or schism, they had no intention of interfering any further.† Upon this the Commission proceeded to charge him with heresy. Finding him guilty, they imposed upon him a fine of £200, and committed him to prison.

Fuller  
fined and  
imprisoned.

Once more he made his appeal. As far as we can judge from the scanty information which has reached us, it seems as if the judges were inclined to interfere,‡ but that they finally left him to his fate, probably on the ground that they had no concern with questions of

\* In 1609 Coke admitted the right of the Commission to fine and imprison for heresy and schism (*Lansd.* MS. 160, fol. 409), and in 1610 a prohibition which was applied for by some Brownists, who were imprisoned for heresy, was distinctly refused (*Rep.* xii. 69).

† Fuller's case (*Rep.* xii. 41). There is a full report of his appeal to the King's Bench, and a copy of the prohibition granted, in *Lansd.* MS. 1172, fol. 100.

‡ Carleton to Chamberlain, Sept. 16, 1607, *S. P. Dom.* xxviii. 51.

CH. VIII. heresy. After a short imprisonment, he paid his fine, and, having made his submission, was released.\*

1608.

He is released, but again imprisoned.

He had not been long at liberty before we hear of him again as being in the custody of the Dean of St. Paul's, apparently on account of some charge brought against him in connection with his speech in defence of Lad and Maunsell, which had been published, without his knowledge, by some indiscreet admirers. How long his liberty was restrained we do not know. At all events he was in his place in Parliament two years afterwards.†

Appeal of Bancroft to the King against the judges.

If the judges refrained from taking any steps in this particular case, they took care to lay down, in the strongest possible terms, the principle that the temporal judges had a right to determine on all occasions what were the limits of the jurisdiction of the Ecclesiastical Courts. Bancroft, undeterred by the reception with which his former protest had been met, and whilst the question was still in controversy, appealed to the King to settle the question at issue between the courts. James tried to repress what he considered to be the too great readiness of the judges to grant prohibitions, and found himself, for the first time, engaged in a personal altercation with Coke. Bancroft had urged that the judges were merely the King's delegates, and that, consequently, the King was at liberty to take any causes he pleased

\* Chamberlain to Carleton, Jan. 5 and 8, 1608, *Court and Times*, i. 69.

† 'Fuller is now again close prisoner with the Dean of St. Paul's, upon suspicion that a late book or pamphlet should be either his or of his knowledge, against the discipline of the Church.'—Whyte to Shrewsbury, Jan. 26, 1608, *Lodge* iii. 225.

The well-known story of Fuller's imprisonment for life by Bancroft, which has served to garnish so many church histories, has, therefore, no foundation, though Fuller, the church historian, got it from Nicholas Fuller's grandson, Douce Fuller. The inquisition taken upon the death of Nicholas Fuller's son, who died as Sir Nicholas Fuller on the 3rd of July, 1620, states that Nicholas Fuller the elder died on the 23rd of Feb. in the same year, not in prison, but at Chamberhouse, in Berkshire. There can be, I suppose, no reasonable doubt that the Nicholas Fuller of Gray's Inn was the same as Nicholas Fuller the member for the city of London, who is called in the Commons' Journals 'a counsellor at law' (i. 325). Nicholas Fuller the younger was not old enough in 1604 to be elected by such a constituency, if he is the younger man of that name on the books of Gray's Inn; nor is it likely that a man who had played the part of the member for the City should have been afterwards knighted by the King.

out of their hands, and to determine them himself. CH. VIII.  
 Upon this, Coke fired up, and, with the full support of  
 the other judges, stated most positively that the King  
 could do nothing of the kind. When James had heard  
 the arguments with which he supported his opinion, he  
 replied that he thought the law was founded upon reason,  
 and that he and others had reason as well as the judges.  
 Coke told him that it was true that God had endowed  
 His Majesty with excellent science and great endowments  
 of nature, but that he was not learned in the laws of the  
 realm, and that causes which concerned the lives or for-  
 tunes of his subjects were not to be decided by natural  
 reason, but by artificial reason and judgment of the  
 law, which required long study and experience before it  
 could be mastered. This law of England the Chief Jus-  
 tice affirmed to be a golden metewand to try the causes  
 of the subjects, and to protect the King in peace and  
 safety. This last expression gave no slight offence to  
 James, who answered that it was treason to affirm that  
 he was under the law. Coke took refuge in a quotation  
 from Bracton, and reminded him of the old maxim that  
 the King ought not to be under man, but under God  
 and the law, which has always been so dear to English  
 jurists.\* After this altercation, it was only by Salisbury's  
 interference that a good understanding was restored  
 between the King and the Chief Justice. The disputed  
 points were reserved for further consideration.

The ecclesiastical lawyers were highly dissatisfied with  
 the treatment their courts had met with at the hands of  
 the judges. Some of them wrote to Bancroft, beseeching  
 him to continue his exertions in their cause, as, if their  
 prospects did not improve, they would be deprived of

Dissatis-  
 faction of  
 the ecclesi-  
 astical  
 lawyers.

\* Rep. xii. 63. Mr. Foss, in telling this story (*Lives of the Judges*, vi. 1),  
 prefaces it by a statement that James occasionally appeared 'in the Court  
 of King's Bench, when the Chief Justice made way for him, and sat at his  
 feet.' He quotes Littleton's speech in the Ship Money case (*State Trials*, iii.  
 942). Littleton, however, makes this assertion of Edward IV. He adds,  
 indeed, 'that famous justice, Popham, sat at the King's feet;' but this is  
 evidently a mistake in the report. The judge referred to was undoubtedly  
 Markham. James, however, is mentioned by Littleton as adjudging two  
 cases in the Star Chamber, which was objectionable enough, but, considering  
 the nature of that court, by no means such an abuse as his taking his seat on  
 the King's Bench would have been. The two cases referred to are those of  
 Bellingham, for duelling, and of the Lakes for libel.

CH. VIII. everything on which they could depend for their support.\*  
 1609. Bancroft condoled with them on their hard case, and told them that he was anxious that the King should take the decision of the question into his own hands. He added that he had no wish that the King should assume absolute power; but he believed that, as the fountain of justice from whom both courts derived their jurisdictions, he had a right to act as mediator between them. He thought it more likely that the poor would obtain justice from the King than from the country gentlemen who composed the House of Commons, or from the judges, who were in league with them. Juries were generally dependents of the gentry, and the cause of justice could not but suffer from their employment.†

The ques-  
tion dis-  
cussed be-  
fore the  
King.

At last, on the 6th of July 1609, the two parties were once more summoned before the King. The discussion lasted three days. The actual point at issue was the right of deciding on questions connected with the payment of tithe; but the principal part of the controversy turned upon a far larger issue. The judges attempted to limit the jurisdiction of the Ecclesiastical Courts in every possible way. They claimed to interpret all statutes under which those courts acted, and to interfere whenever they transgressed the bounds which were imposed upon them by those statutes. In particular, they declared that they had no power to fine and imprison, excepting in cases of schism and heresy, and that the High Commission ought only to deal with serious offences, leaving lighter matters to the jurisdiction of the Ordinary. These arguments were, of course, resisted by the bishops and the lawyers who practised in their courts.

The King  
postpones  
his deci-  
sion.

James did not know what to do. He was anxious to keep the peace, and he did not see very well how it was possible to decide on the point in question without offending one party or the other. He hoped, he said, to receive further information. For the present, the issue of prohibitions was to cease. He wished to support the judges, and he also wished to support the clergy. He was

\* Petition of the lawyers to Bancroft, *Cott. MS.*, Cleop. F. i., fol. 107.

† Bancroft to —, Jan. 23, 1609, *Cott. MS.*, Cleop. F. ii., fol. 121.



anxious, he added, in his usual good-natured feeble way, that the two parties should cease to abuse one another, and that they should live together, in future, 'like brothers, without emulation.'\*

CH. VIII.  
1609.

The opposition which the proceedings of the Ecclesiastical Courts had raised amongst the judges must have made Salisbury anxious as to the success of the appeal which he was about to address to the House of Commons, which was, as he well knew, animated by a still stronger dislike to those courts. All other means, however, of restoring the finances to a sound condition having been exhausted, it was determined to summon Parliament to meet early in 1610. Unusual precautions were taken to obtain a majority in favour of the Treasurer's scheme. During the long interval which had passed since the last session several vacancies had occurred. To four, at least, of the constituencies which had seats at their disposal Salisbury made applications in favour of nominees of his own. The answers which he received throw some light upon the manner in which elections were at that time conducted. The bailiffs of Eye† said that they had already selected a candidate at the nomination of a neighbouring gentleman, but that he had consented to waive his claim, when he heard that a letter had been received from Salisbury. Another of the Treasurer's letters was sent down to Bossiney. It was carried by the mayor to a gentleman named Hender, who wrote to Salisbury, telling him that he had held the nomination for more than twenty years, but that, on this occasion, he was willing to place it at the disposal of the Government.‡ The bailiffs of Boroughbridge answered a similar request, by saying that they would rather die than refuse to elect Salisbury's nominee.§ The corporation of Ludlow alone refused to elect the person

Parliament summoned.

Elections to vacancies.

\* James's decision is given in Sir J. Cæsar's notes (*Lansd. MS.* 160, fol. 406 b) much more fully than by Coke (*Rep.* xiii. 46). These notes have all the appearance of being taken down at the time. There are also papers connected with this discussion in *Cott. MS.* Cleop. F. i.

† Bailiffs of Eye to Salisbury, Oct. 18, 1609, *S. P. Dom.* xlvi. 109.

‡ Hender to Salisbury, Oct. 21, 1609, *S. P. Dom.* xlvi. 116.

§ Bailiffs of Boroughbridge to Salisbury, Nov. 5, 1609, *S. P. Dom.* xlix. 10.

CH. VIII. designated, as they were bound to choose no one who  
 1610. was not a resident in their town. They would, however, take care that their new member should vote entirely according to the wishes of the Government.\*

Meeting of  
Parlia-  
ment.

The session commenced on the 9th of February. At a conference which was held on the 15th, Salisbury laid before the House of Commons an exposition of the condition of the Treasury. As was only natural, he laid far more stress on the necessities of the King than on the prodigality by which they had, in a great measure, been caused. Nor did he fail to draw attention to the exertions by which the debt had been reduced to a sum of £300,000, and the revenue had been brought to within £46,000† of the regular expenses, although the King would need much more to supply his extraordinary expenditure. He begged the Commons not to allow the ship of State to be wrecked at the entrance of the port. He was obliged, in noticing the objection that the King had been too prodigal of his bounty, to fall back upon common-places on the necessity of rewarding merit, and to quote the example of other princes whose expenditure had been equally profuse. If the House would consent to assist the King in his need, he would, on his part, be ready to redress all just grievances.‡

Feb. 13.  
Supply  
and  
support.

In taking the Treasurer's speech into consideration, the Commons decided upon postponing the question of the supply to be granted for the payment of the debt, until they had determined upon some regular support by which the revenue itself might be permanently increased.

Various proposals were made. Amongst others, Thomas Wentworth, the member for the city of Oxford, and son of the Peter Wentworth who had been committed to the Tower by Elizabeth, for the boldness of his language in the House, proposed that the King should at once be petitioned to reduce his expenditure.

Feb. 21.

The House, however, was not prepared for so strong a measure, and the whole question was referred to the

\* Corporation of Ludlow to Salisbury, Dec. 1, 1609, *S. P. Dom.* 1. 1.

† So he said. The difference in the estimate, which is printed in *Parl. Deb.* in 1610, *Introd.* p. xii., xix., and which is fixed by internal evidence in the beginning of 1610, is £49,000. A few months later it was £56,000.—*App. VIII.*

‡ *Parl. Deb.* in 1610, p. 1. *Harl. MS.* 777, fol. 1.

Committee of Grievances. A few days afterwards, Sandys reported, in the name of the Committee, a recommendation that the Lords should be asked to state precisely what it was that the King was willing to do. If the Lords refused to mention anything, the Commons were to ask for leave to treat with the King for the abolition of the feudal tenures, and especially of the whole system of wardship.

CH. VIII.  
1610.

It was plain that there was a difference in the manner in which the matter in hand was regarded by those who were principally concerned. Salisbury, on the part of the Government, considered it to be the duty of the Commons to supply the wants of the King, and looked upon the redress of grievances as a favour which was to be granted to them if they performed their duty. With the Commons, on the other hand, the first object was, that England should be well governed, and, if this were done, they were ready not to scrutinise too closely the causes of the Sovereign's necessities.

In the conference which ensued, Salisbury plainly put forward the demands of the Government. He asked for a grant of £600,000, half of which was to pay off the debt, whilst £150,000 was to be employed in meeting the extraordinary expenses of the navy, and the remainder was to be laid by to be used on any emergency which might arise. He also asked for a permanent grant of £200,000 a year, which would give the King an annual income of £660,000, a sum nearly £50,000 in excess of his whole annual expenditure,\* provided that that expenditure continued at its present rate, and that his income was not diminished by the concessions which he was prepared to make to the demands of the nation. He was answered, that the grant could only be given by means of subsidies, and that the Lower House always kept such questions in its own hands. With respect to the permanent support, the Commons would consider of it. He was then distinctly asked whether the Lords would join in requesting the King to give them leave to

Feb. 24.

\* The extraordinary expenses were calculated to amount to about £100,000. But there can be little doubt that this was putting them far higher than was at all necessary.

## CH. VIII.

1610.

The Commons ask to treat for tenures.

treat for the surrender of those rights connected with the feudal tenures which were felt to be so oppressive to the subject. He answered that he could not reply without first consulting the Lords. He mentioned, however, several points in which the King's prerogative trenched upon the ease of the subject. He proposed that they should consider whether these might not form part of the contract with the King. Among them was one of the old subjects of dispute, the right of purveyance.

The Lords appointed a committee to wait upon the King, for the purpose of asking him whether he was willing to treat on the tenures. James told them that he must take time to consider upon a question of such importance.\*

Dr.  
Cowell's  
book.

Meanwhile the Commons were busy with a book which had been published rather more than two years before. It was a law dictionary, entitled 'The Interpreter.' The author, Dr. Cowell, was the Reader on Civil Law at the University of Cambridge. His work had been brought out under the patronage of Bancroft, and for that reason, if for no other, it was likely to be subjected to minute criticism by the partisans of the common law. It was said—and it is by no means improbable—that the inquiry which was made by the House of Commons was set on foot at the instigation of Coke. The opinions which were contained in the book were such as no House of Commons could fail in pronouncing to be unconstitutional. If in some places the author took pains to state that he did not put forth these opinions as unquestionable truths, he left no doubt in the minds of his readers to which side his own ideas inclined. Thus, after declaring that he left it for wiser men to decide whether it was binding upon the King to require the consent of Parliament to the enactment of laws, he asserted that the King of England was undoubtedly an absolute King, and proceeded to quote authorities in support of the doctrine that to make laws was part of the prerogative of such a King.† In another place he

\* *L. J.*, ii. Feb. 28.

† Article, 'Prerogative,' *Ed.* 1607.

stated this opinion still more forcibly. 'Of these two,' CH. VIII.  
1610. he wrote, 'one must needs be true, that either the King is above the Parliament, that is, the positive laws of his kingdom, or else that he is not an absolute King. . . . And, therefore, though it be a merciful policy, and also a politic mercy (not alterable without great peril) to make laws by consent of the whole realm, because so no one part shall have cause to complain of a partiality, yet simply to bind a prince to or by those laws were repugnant to the nature and constitution of an absolute monarchy.\*' In a similar spirit, he put it forth as an opinion held by some, 'that subsidies were granted by Parliament in consideration of the King's goodness in waiving his absolute power to make laws without their consent.'†

The Commons requested the Lords to join them in calling the King's attention to the book. Before, however, the Lords had time to take any steps in the matter, they were told by Salisbury that the King had summoned Cowell before him, and that he wished him to inform the Commons that he was much displeased with the book. He considered that it impugned the Common Law of England, and the fundamental grounds of the constitution of Parliament, and that in opposing the prerogative to the law the author had attacked both King and Parliament together. If the book had been brought before the King's notice earlier, he would have taken order with it; as it was, he would take immediate steps for suppressing it. Salisbury also reported that the King had acknowledged that although he derived his title from his ancestors, 'yet the law did set the crown upon his head,' 'and that he was a King by the Common Law of the land.' He 'had no power to make laws of himself, or to exact any subsidies *de jure* without the consent of his three estates, and, therefore, he was so far from approving the opinion, as he did hate those that believed it.'‡

Interference of the King.

Suppression of the book.

Soon afterwards, a proclamation appeared commanding

\* Article, 'Parliament.' The article, 'King,' contains similar doctrines.

† Article, 'Subsidy.'

‡ *Parl. Deb.* in 1610, p. 24. It is curious that no care was taken to record this admission in the journals.

CH. VIII. the suppression of the book. The House received the  
1610. news with pleasure, and ordered that thanks should be given to the King for the promptness with which their wishes had been met.

As soon as Salisbury had concluded his declaration of the King's disavowal of the opinions contained in Cowell's book, Bacon, in the name of the House of Commons, once more brought the subject of the tenures before the notice of the Lords. He begged them to assure the King, that in asking for leave to treat, the Lower House had never intended in any way to diminish the Royal revenues. It was a mistake to suppose that the dignity of the Crown would be in any way affected by the concessions he was asked to make. The right of wardship was by no means peculiar to Royalty. It was no longer by the feudal tenures that men were under obligations to serve the Crown. The soldiers who had followed the English captains in the late wars had been bound by very different ties from those which compelled a vassal to hold himself in readiness to defend his lord. When the musters were held in the counties of England, men never dreamed of asking whose tenants they were, or how they held their land. All they remembered was that they were the subjects of the King, and this they would never forget if all the tenures in existence were swept away at a stroke. If the change would deprive the King of the right of protecting those who had hitherto been his wards, he must remember that he would only relinquish his claim in favour of the nearest relations of the orphans, who were, above all others, most likely to care for their welfare. Nor would there be the slightest difficulty in providing means by which the misuse of authority by harsh or avaricious relatives might be kept in check. He concluded by requesting the Lords to join the Commons in petitioning the King to give his answer as soon as he conveniently could. The work before them was one of great importance, and would require long deliberation. Solomon's temple, he reminded them, was made without noise, but it was not built in one day.\*

\* *Parl. Deb.* in 1610, p. 25.

On the 12th of March the Commons received a favourable answer from the King to their demand. On the 26th, the Committee to which the subject had been referred, proposed that the King should give up all the emoluments resulting from the feudal tenures, with the exception of the aids, which were due upon the knight- ing of the King's eldest son, and upon the marriage of his eldest daughter. For this, and for the remission of the claims which Salisbury had proposed to abandon, they offered no more than £100,000. Such an offer was not likely to be acceptable to the King. The concessions he was required to make would probably be equivalent to a deduction of about £40,000 from his revenue,\* and he would be left with a total income of £520,000. Such a sum was certainly insufficient to meet an expenditure of £600,000. The Commons, however, knew perfectly well how much of this expenditure was unnecessary, and they thought that a sum which Elizabeth would have received with thankfulness, not unmingled with astonishment, ought to be sufficient for her successor. This view of the case, however, was not likely to meet with acceptance at court. Salisbury told them that so far from £100,000 being sufficient, the King would not now accept even £200,000, unless they also made up to him the loss which his revenue would sustain if he yielded to their demands.† On the 4th of May the Commons sent a message to the Lords, refusing these terms; and the negotiations were, in consequence, brought to an end for the time.

CH. VIII.  
1610.

The Commons receive leave to treat on tenures.

They offer  
£100,000.

A few days before the great contract, as it was called, was thus broken off, Sandys reported on behalf of the Committee, which had been occupied ever since the beginning of the session in drawing up the petition of grievances, that they had arrived at the question of the impositions which had been passed over so unceremoniously in the last session. He asked the House to direct that search might be made for precedents bearing on the subject. Accordingly, on the following day, certain

The petition of grievances.

\* Sir J. Caesar estimated the King's loss at £44,000 (*Parl. Deb.* in 1610, p. 164). But I suspect this was considerably over-estimated.

† *Parl. Deb.* in 1610, p. 146.

CH. VIII.

1610.

The Commons forbidden to discuss the impositions.

members, amongst whom was the well-known antiquary Sir Robert Cotton, were named for the purpose. On the 11th of May, however, before they had made their report, the Speaker informed the House that he had received a message from the King, to the effect that if they intended only to take into consideration the inconveniences alleged to result from any particular imposition, he would readily hear their complaints; but that if they were about to discuss his right to levy impositions in general, they must remember that the Court of Exchequer had given a judgment in his favour. He therefore commanded them to refrain from questioning his prerogative.\*

As soon as the Speaker had finished, Sir William Twisden, who knew that the King had been absent from London for a week, asked him who gave him the message. The Speaker confessed that he had not received it from the King, but from the Council. Upon this a resolution was passed, that what had just been heard should not be received as a message from the King. James was at

\* 'His Majesty having understood that in your proceedings concerning the matter of impositions upon merchandise imported and exported, you have not only been contented to handle the same as a matter whereof there may be cause to seek some information or ease (by petition to His Majesty) upon proof of inconvenience in the manner of imposing (either respecting the time, the nature of the merchandise, the proportion of the impost, or any other such circumstances, from which His Majesty hath not sought to divert you), but have also entered into a search and examination upon what ground or law he either hath or may make use of such an authority: It hath pleased His Majesty to give me express commandment to declare unto you that, however he hath and ever will be willing to receive and remedy any just and humble complaints of his loving subjects, either in this or any other occasion, he esteemeth all those proceedings by which there may be any doubt or question made of his authority in that kind (respecting any charge or impost to be laid upon things that pass either into the realm or out of the same) to be so much in the derogation of that prerogative which he deriveth from his royal progenitors (not only in point of law, but by the use and practice of the same) as, when he considereth to how little purpose any such disputations amongst you can be, where not only those circumstances do concur, but a legal judgment hath been given in that place where all things of that nature ought to be decided, he can no longer forbear to command you by my mouth to give over all such arguments or directions as may any way tend to the examination of his power and prerogative in the general, or the reason of that judgment which hath been given upon that question (as a matter out of your power to examine or determine, and both injurious and dishonourable for him to suffer to be disputed).'  
*Cott. MS. Tit. F. iv. fol. 255. See also C. J., i. 427, and Parl. Deb. in 1610, p. 32.*



first greatly displeased, but, upon further consideration, he forbore to press the point. Scarcely had this episode come to an end, when both Houses were summoned to Whitehall, to meet the King, who had come back to London upon hearing of the resistance with which his message had been received.\* He began by reminding them that they had been now sitting for fourteen weeks, and had as yet done nothing towards the relief of his necessities. As for the impositions, he was perfectly justified in what he had done. He would, however, engage not to lay any more, at any future time, without hearing what both Houses had to say respecting the proposed increase of taxation. But he refused to be bound by any opinion which they might then express. The Kings of Spain, France, and Denmark had the right of levying impositions, and why should he not do as they did? He would not have his prerogative called in question.

CH. VIII.

1610.

May 21.

The King's  
speech.

Next morning, the House met in high dudgeon.† Sir Francis Hastings declared that the King might as well have claimed a right to dispose of all their properties. He therefore moved for a Committee to consider how they might obtain satisfaction. It was in vain that Sir Julius Cæsar, now Chancellor of the Exchequer, advised that they should be content to take the law from the judges. The motion for the appointment of a Committee was carried without a division. The Committee met in the afternoon. Fuller and Wentworth maintained the right of Parliament to discuss all questions which concerned the Commonwealth. Bacon answered by quoting precedents from the time of the late Queen, in which the House had undoubtedly allowed its discussions to be interfered with by the sovereign. He said that the House might always discuss matters which concerned the interest of the subject, but not matters which related to the prerogative. He therefore recommended that the impositions should be

A committee appointed to consider the King's speech.

\* Abstract of the King's Speech, *S. P. Dom.* liv. 65. *Parl. Deb.* in 1610, p. 34. *Harl. MS.* 777, fol. 27 a.

† The debate in the House in the morning is reported in *C. J.*, i. 430. The afternoon debate in Committee will be found in *Parl. Deb.* in 1610, p. 36.

CH. VIII. complained of as grievances, but that the King's power  
1610. to impose should not be called in question. Those who answered him were not very successful in dealing with Bacon's precedents, as it was difficult to get rid of the fact, that Elizabeth had often prevented the House from meddling with her prerogative. But on the general merits of the case, their reply was unanswerable. They argued, that if they had a right to discuss grievances which bore hardly upon individuals, much more had they a right to discuss a grievance which bore hardly upon the whole commonwealth.

Petition of right. A petition of right was accordingly drawn up, in which the Commons declared that they could not be prevented from debating on any matter which concerned the rights and interests of the subject. They had no intention of impugning the King's prerogative; but it was necessary for them to ascertain what were its true limits, as there was a general apprehension that upon the same arguments as those upon which the judgment in the Exchequer had been founded, the whole property of the subject might be confiscated at the will of the sovereign. Accordingly, they prayed to be allowed to proceed in their inquiries, in order that the matter being settled, once for all, they might be able to pass on to his Majesty's business.\*

May 24. A deputation was sent with this petition to the King  
The King gives way. at Greenwich. He received the members most affably. He had found that he had gone too far, and he was anxious to draw back. He pretended that in the message delivered by the Speaker he had only intended that the House should not debate on the impositions till he returned to London. His own speech had been misunderstood. He meant to warn them against impugning his prerogative, which they now declared that they had no intention of doing. He had no wish to abridge any of their privileges, and he gave them full liberty to consider the whole question. He only hoped that they would not forget his wants, and that they did

\* C. J., i. 431.

not intend to take with one hand what they gave with the other.\*

The Commons were well satisfied with this answer, and at once agreed to take the contract into further consideration. For the moment, however, they were occupied with other matters. News had arrived of the murder of Henry IV. by the fanatic Ravallac. For this atrocious crime the English Catholics were to pay the penalty. The House saw in it an attempt similar to that by which their own lives and that of their sovereign had been endangered five years before, and they dreaded its influence upon the minds of those who might be prepared to imitate the example of the assassin. They knew of no other way to meet the danger than that which had so long been tried in vain. They accordingly petitioned the King to put in execution the laws against recusants. In this they were joined by the Upper House. James thanked them, and promised to comply with their wishes. An Act was also passed, ordering that all English subjects should take the oath of allegiance, and for the first time imposing a penalty upon married women who were recusants. If they refused to take the Sacrament in the Church of England they were to be imprisoned, unless their husbands were willing to pay £10 a month for their liberty.

The House was proceeding to debate the contract, when they were again interrupted to witness a ceremony which must have come like a burst of sunshine in the midst of these unsatisfactory disputations. On the 4th of June, in the presence of both Houses, Prince Henry was solemnly created Prince of Wales. He was now in his eighteenth year, and he had already won the hearts of the whole nation. In his bright young face old men saw a prospect of a return to the Elizabethan glories of their youth. His heart was open to all noble influences, and, if he had lived, he would have been able to rule England, because he would have sympathised, as his father never did, with all that was good and great in the

CH. VIII.

1610.

The contract resumed.

Murder of Henry IV.

The Commons petition against recusants.

Creation of the Prince of Wales.

\* C. J., i. 432. Report of the King's Answer, *S. P. Dom.* liv. 73. *Parl. Deb.* in 1610, p. 41.

CH. VIII.

1610.

English character. No doubt there was much which was wanting to make him a perfect ruler. Prudence and circumspection are not the qualities which manifest themselves in boyhood; but these would have come in time. His thoughts, even in his childhood, had been filled with images which presaged a stirring life. There was nothing prematurely old about him, as there had been in his father's earlier years. When he first came to England, he talked of imitating the Plantagenets when he should be a man, and of leading armies to the conquest of France. These dreams passed away, and he threw himself heart and soul into the tales of maritime adventure which were so rife in England. In everything that concerned ships and ship-building he took a peculiar interest. Nothing, however, marks the soundness of his character more than the steadfastness with which he remained constant to those whom he admired. Alone, in his father's court, he continued to profess his admiration of the unfortunate Raleigh. No man but his father, he used to say, would keep such a bird in a cage. The man to whom he owed the greater part of his knowledge of shipping was Phineas Pett, one of the King's shipwrights. On one occasion a complaint was made against Pett, and he was examined in the presence of the King. During the whole of the examination the Prince stood by his side to encourage him, and when he was pronounced innocent of the charge which had been brought against him, was the first to congratulate him on his success, and to give utterance to a boyish wish that his accusers might be hanged.\* We can readily imagine that, as long as the Prince lived, the House of Commons were able to look with hope to the future, and that the ceremony which they were called to witness must have inclined them not to deal harshly with the King's demands, in the hope that the crown would sooner or later rest upon a worthier head.

Salisbury  
demands a  
supply.

On the 11th of June, Salisbury addressed the Commons on the subject of the contract. He proposed that they should at once grant a supply to pay off the debt,

\* Birch, *Life of Henry Prince of Wales*, p. 157.

and to meet the current expenditure. The support was to be deferred till the next session, which would commence in October. The annual sum required by the King was now distinctly stated to be £240,000, which, allowing for the loss he expected to suffer, was equal to the £200,000 which he had originally demanded. He also wished them to defer the presentation of their grievances to the following session. He told them that the impositions had been examined, and that several had been altogether remitted, at a yearly loss to the Crown of £20,000.\*

CH. VIII.

1610.

The proposal that the presentation of the petition of grievances should be postponed met with little favour in the House of Commons. In spite of messages sent by the King, assuring them that he would receive their grievances, and give them an answer before the prorogation, they steadily refused to vote any money till they had completed their petition.

On the 23rd of June the House resolved itself into a Committee, in order to consider the question of the impositions. The debate, which lasted for four days, was left almost entirely in the hands of the lawyers. Even Sandys, who was usually heard on every important occasion, sat silent. The speakers on both sides seem to have had a horror of general reasoning. The Crown lawyers repeatedly called upon their antagonists to remember that they were debating a question of law and fact, into which they had no right to introduce political arguments. The popular speakers readily followed them upon this ground, and carefully fortified their case with quotations of statutes and precedents. If they ever strayed away into a wider field, it was only after they had completed the structure of their main defences, and were provoked to reply to some dangerous assertion of their antagonists. The line of argument, which was thus adopted at the commencement of the great constitutional battle, was steadily maintained during a struggle extending over a period of eighty years. Those who made use of it have obtained much unmerited praise,

The debate on impositions based upon precedents.

\* *Parl. Deb.* in 1610, pp. 52, 154, 165. See the Commission to draw up a new book of rates, Sept. 5, 1610. *Patent Rolls*, 8 James I. Part 30.

CH. VIII. 1810. and have incurred much unmerited obloquy. Englishmen are too often inclined to represent the course taken by their ancestors as an example which should be invariably followed by other nations, and have been ready to sneer at statesmen who have adopted, under totally different circumstances, a totally different system of political reasoning. French writers, on the other hand, are continually tempted to look down upon an opposition which contented itself with appealing to the practice of former ages, and to investigating the laws of one particular nation, but which shrunk from putting forth general principles, which might be a guide to all nations for all time. In fact, English Conservatism was as much the consequence as the cause of political success. Our ancestors did not refer to precedents merely because they were anxious to tread in the steps of those who went before them, but because it was their settled belief that England had always been well governed and prosperous. They quoted a statute not because it was old, but because they knew that, ninety-nine times out of every hundred, their predecessors had passed good laws. From this feeling grew up the attachment which Englishmen have ever shown to the law of the land. Knowing that whatever defects it might have, those defects were as nothing in comparison to its merits, they took their stand upon it, and appealed to it on every occasion. It was not an attachment to law in general, but to the particular law under which they lived. No doubt this feeling had its defects. It was liable to give them too great a measure of purely local patriotism, and to lead them to look down upon the ideas of other nations. Above all it was liable to dwarf the intellect, by fixing the mind too completely on the past, and by rendering it careless of possible reforms. On the other hand, what England lost in vigour and independence of thought it gained in security. Whatever point has once been won in England has never been lost. Each acquisition in the path of progress has been added to the stock of past gains, and has taken root in the national affections. Our constitution has been the steady growth of ages, and it has acquired strength with its age. There has seldom been

a period when there have not been thinkers upon the Continent who have equalled, if they have not surpassed, those of England. But the Englishman, whose ideas have been in advance of his time, has always known that the bulk of the nation was, at least, not lagging very far behind him, and that the greater part of the materials of his thoughts have long been the common property of even the least intelligent of his countrymen.

It must not, however, be supposed that the two parties were quarrelling about the mere letter of the law. The letter of the old statutes was singularly confused and uncertain, and could only be rightly interpreted by those who entered into the spirit of the men who drew them up. Differences of opinion on the form of government which was most suited for the seventeenth century, were sure to reappear in differences of opinion on the form of government which had actually existed in the thirteenth and fourteenth centuries, and would make themselves felt in any attempt to educe a true meaning from the early statutes. These differences were none the less felt, because they did not on either side find their expression in any well defined system of political opinion. Both parties agreed that there were certain definite functions which belonged to the King alone, and that there were other definite functions which belonged only to the House of Commons. But the great majority of the Lower House were beginning to feel that when any difference of opinion arose on any important subject between the King and the Commons, it was for the King, and not for themselves, to give way. A few, however, with Bacon at their head, thought that the King ought to be, at least in a great measure, independent of the House of Commons. In looking back to the past history of their country, both parties allowed their view of the old constitution to be tinged with colours which were derived from their own political opinions. As might be expected, when such a history as that of England was in question, those who were the best politicians proved also to have the most accurate knowledge of history. Both parties, indeed, made one mistake. It is impossible to read the arguments which were used in the long debate, without

CH. VIII.  
1610.

Difficulty  
of inter-  
preting the  
prece-  
dents.

Opposite  
views of  
constitu-  
tional law.

CH. VIII.  
1610.

perceiving that all the speakers agreed in attributing to the constitution of the thirteenth and fourteenth centuries far more of a settled character than it in reality possessed. They all seem to have imagined that on important points there was some fixed rule to which all had assented, the contravention of which was known to be a breach of constitutional law.\* They failed to seize the true character of the epoch as a time of struggle during which the idea of law was gradually evolving itself from the midst of a conflict of opposing wills. But the popular party had the better of their adversaries in this, that what they alleged to have been the acknowledged law of that period was in reality the system in which the constitution was finally moulded after the conclusion of the struggle, and towards which, during its continuance, every step taken in advance was constantly tending; whereas the powers claimed for the Crown had gradually sunk under the unintermitted protests of the nation, and had been finally, by universal consent, either explicitly given up or tacitly abandoned, till they had been in part regained under very different circumstances during the reigns of the Sovereigns of the House of Tudor.

If the popular party were right in their interpretation of the spirit of English history, it would have been strange if they had been unable to meet their opponents on merely technical grounds. Careless as the early Parliaments had been of laying down general principles, it would have been very remarkable if in the course of a century and a half they had not dropped some words which could be understood as a bar to all future attempts of the King to exercise the right of imposing in general, although at the time they were only occupied in defeating certain particular impositions.

Statutes  
quoted.

The two statutes upon which the greatest weight was justly placed were the Confirmation of the Charters by Edward I., and another Act passed in the reign of his

\* Besides the notes in *Parl. Deb.* in 1610, we have in the *State Trials* (ii. 395) part of Bacon's speech, with the speeches of Hakewill and Whitelocke, the latter erroneously attributed to Yelverton; and in *Cott. MS. Tit. F. v.* fol. 244, Doderidge's speech; and at fol. 242 a speech of Crompton's, which was probably delivered on this occasion.



grandson. The Act of Edward I. declared, 'that for so much as the more part of the Commonalty of the Realm find themselves sore grieved with the maltolt of wools, that is, to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; we at their request have clearly released it, and have granted for us and our heirs that we will not take such things without their common assent and good will, saving to us and our heirs the custom of wools, skins, and leather granted by the Commonalty aforesaid.'\* Bacon, and those who followed on the same side, urged that this statute did not take away the original right of the Crown, because the words, 'such things' were applicable only to the wool mentioned at the beginning of the sentence. He was answered by Hakewill, who argued that if the words were meant to apply to wool alone, it would have been absurd to insert a clause saving the customs on skins and leather. The other statute† stated that the Commons having petitioned against the duties which had lately been imposed upon lead, tin, leather, and woollfells, the King prayed the Parliament to grant him certain duties for a limited time, and promised that, at the expiration of the term, he would only exact the old custom on the wool and leather. Bacon argued, from the King's silence regarding lead and tin, that the imposition upon these articles was intended to continue. Fortunately, Hakewill was able to quote from a later paragraph that 'the King hath promised not to charge, set, or assess upon the custom but in the manner aforesaid.'

CH. VIII.  
1610.

Even as an interpretation of the mere letter of the statute, Bacon's view of the case is manifestly inferior to that of Hakewill; but if the Acts are read in the spirit of the times in which they were drawn up, the superiority of the popular party becomes still more undoubted. The words in which these old contracts between the Kings of England and their Parliaments were drawn up were undoubtedly loose, but their intention was manifest. If the Commons only spoke of the

\* 25 Ed. I. Confirm. Cart. cap. 7.

† 14 Ed. III. stat. i. cap. 21.

CH. VIII.

1610.

impositions on wools, woolfells, and leather, from which they suffered, there could not be the slightest doubt that they would have had equally invincible objections to any other form of imposition. That after a long struggle the King gave up the point, and did not attempt to shift the duties from wool to some other articles of commerce, plainly shows that he understood the meaning of the words that were used better than the lawyers who attempted two hundred years afterwards to fix their own sense upon them.

Argument  
on the  
King's  
preroga-  
tive of  
regulating  
trade.

Among the many speakers on the popular side, Hakewill has the credit of having been the first to establish that the Commons were technically in the right. He was no less successful in meeting an argument which was drawn from the supposed necessity of the case. It was said, that if foreign princes laid burdens upon English commerce, it would be necessary to reply by laying similar burdens upon the importations into England of the produce of their dominions. This must be done at once, and there would be no time to summon a Parliament.\* Hakewill† answered by denying that it was likely that the negotiations, which were sure to be entered upon when the quarrel first arose, would be so quickly despatched as to allow no time for summoning Parliament. But the answer of Whitelocke,‡ a member who had entered Parliament for the first time in this session, went straight to the point. 'This strain of policy,' he said, 'maketh nothing to the point of right. Our rule is, in this plain Commonwealth of ours, that no man ought to be wiser than the laws. If there be an inconvenience, it is fitter to have it removed by a lawful means than by an unlawful. But this is rather a mischief than an inconvenience, that is, a prejudice *in presenti* of some few, but not hurtful to the Commonwealth. And it is more tolerable to suffer a hurt to some few for a short time, than to give way to the breach and violation of the right of the whole nation—for that is the true inconvenience; neither need it be so difficult or tedious

\* Carleton's argument, *Parl. Deb.* in 1610, 61.

† *State Trials*, ii. 476.

‡ *State Trials*, ii. 518.

to have the consent of Parliament, if they were held as they ought or might be.' CH. VIII.

Another argument had been put forth by Bacon, which was hardly likely to meet with acceptance. 'The King,' he said,\* 'had power to restrain goods from entering the ports, and if he might prohibit their entrance, he might continue the prohibition until a certain sum was paid.' This reasoning was adopted by Yelverton, who made it the main staple of his speech. He had lately given offence to the King by some words which had been uttered by him in the course of the last Session, but he had sought forgiveness, and had received a promise of the Royal favour. He was not a man to support measures of which he did not approve, but it can hardly be doubted that the memory of his recent disgrace was present with him on this occasion. At all events, he distinguished himself as the most thorough-going advocate of the prerogative in the House. The law of England, he told the astonished Commons,† extended only to low-water mark. Beyond that, everything was subject to the law of nations, which knew nothing of either statute or common law. All things upon the sea being thus within the King's immediate jurisdiction, he had a right to restrain them from approaching the shore. Bates's imposition was upon a restraint of this kind. He was told, 'You shall bring no currants; if you do, you shall pay so much.' He concluded by repudiating a doctrine which had been maintained by those who had spoken on the same side. It was not true, he said, that if the impositions were excessive, the judges might interfere. No man could meddle with them but the King himself.

1810.

Argument  
on the  
King's  
right to  
restrain  
merchants,

Yelverton was answered by Martin, the member for Christchurch, who told him that Englishmen 'were, by the constitution of' the 'kingdom, entitled to be judged by the law of England. The merchants' liberty and' riches were 'upon the sea.' He had as 'good right to plough the sea as the ploughman had to plough the land. The common law' extended 'as far as the power

answered  
by Martin  
and  
White-  
locke.

\* *Parl. Deb.* in 1810, 68.

† *Parl. Deb.* in 1810, 85.

CH. VIII. of the King.' It was 'as the soul in the body. The  
1610. liberty of the seas' was 'parcel of the liberty of the subject.'

Whitelocke, who had shown that he could quote precedents to better purpose than any of the Crown lawyers, grounded his opposition on higher principles than any which they could allege in their defence. With them the King was the possessor of certain definite rights, which he might enforce without considering whether the country suffered from them or no. With Whitelocke, on the other hand, the King only held them in trust for the Commonwealth, in the interest of which those rights must be interpreted. 'The premises of the arguments of his opponents,' he said, 'are of a power in the King only fiduciary, and in point of trust and government;' but their conclusion inferred 'a right of interest and gain.' If the King had the custody of the ports, it was in order that he might 'open and shut upon consideration of public good to the people and state, but not to make gain and benefit by it. . . The ports in their own nature are public, free for all to go in and out, yet for the common good this liberty is restrainable by the wisdom and policy of the Prince, who is put in trust to discern the times when this natural liberty shall be restrained. . . In point of government and common good of the realm he may restrain the person. But to conclude therefore he may take money not to restrain, is to sell government, trust, and common justice, and most unworthy the divine office of a King.'\*

The House  
almost  
unani-  
mous  
against  
the Crown.

There could be no doubt which opinion would carry the day within the walls of the House of Commons. Not only were the arguments of those who opposed the claim of the King far superior to those of their adversaries, but the House instinctively felt, as soon as the question was fairly put before them, that their whole future existence was bound up with the arguments of the popular speakers. If the King was justified in what he had done, he might in future raise far larger sums in a similar manner, and obtain a revenue which would

\* *Parl. Deb.* in 1610, 153.

make it unnecessary for him, except on rare occasions, to consult his Parliament. Bacon and his friends did not dare to divide the House. A Committee was appointed to draw up a petition which was to be inserted in the general petition of grievances. CH. VIII.  
1610.

On the 7th of July, the grievances were presented to the King.\* James, on catching sight of the long roll of parchment upon which they were written, called out that it was large enough to serve for a piece of tapestry. He promised to give an answer in a few days. Accordingly, on the 10th, in the presence of both Houses, after Salisbury had given an account of the manner in which the impositions had been set, and had justified himself in the part which he had taken in the matter, James gave his answers to some of the grievances, reserving the others for a future day. With most of his answers the Commons were well satisfied. On the subject of the impositions he proposed a compromise. He would retain those which had been already set, but he would give his consent to an Act by which he should be prohibited from levying any similar exactions for the future. The  
petition  
of griev-  
ances.

The next day, the House resolved to grant a supply; but in spite of all the exertions of the Court party, they refused to give more than one subsidy and one-fifteenth. This would be sufficient to meet the most pressing necessities of the Government, and they were anxious not to give too liberally till the points in dispute between them and the King were finally settled. It would be well that, at the commencement of the following session, the King should still feel it necessary to look to them for the payment of his debts. In the course of the debate, one member was heard whispering to his neighbour, that the limitation of the supply would do the King good, and would serve as a subpoena to bring him to answer for himself when he was wanted. Grant of a  
subsidy.

In accordance with the King's wishes, a Bill† was

\* *Parl. Deb.* in 1610, 123. The whole petition is in Petyt's *Jus Parliamentarium*, 318. The reprint in the *State Trials* is imperfect.

† *Parl. Deb.* in 1610, 162. The Bill there printed is from the draft made at its reintroduction in the next session.

CH. VIII.

1610.

The Bill on  
imposi-  
tions.

brought in, enacting that no imposition should hereafter be laid without the consent of Parliament, other than those which were already in existence. This Bill was dropped in the House of Lords. It is possible that they objected to the assertion which it contained, that the old statutes had declared, 'that no custom or imposition should be taken but by the common assent of the realm;' but it is more likely that they wished it to stand over till the next session, when it would form a part of a general settlement of all the questions pending between the Crown and the House of Commons.

The con-  
tract con-  
cluded.

The Lower House now set themselves to work upon the contract. On the 26th of June, Salisbury announced that the King was ready to accept £220,000.\* On the 13th of July, the Commons answered by proposing to give £180,000. Salisbury was indefatigable in attempting to bring the King and the House to terms.† At last he succeeded in inducing both to give way. The Commons consented to advance their offer to £200,000,‡ which James agreed to accept. As, however, they had now included in the concessions for which they asked the purveyance and other matters which had been originally put forward by Salisbury, the actual increase of the King's revenue, after accounting for the late diminution in the impositions, would have amounted to about £100,000,§ giving him, in all, about £560,000 a year, an amount which ought to have been sufficient for his wants, though it was considerably less than the sums which he had lately been spending.

A memorial was accordingly drawn up, in which the Commons promised to give the sum upon which the parties to the contract had finally determined. In whatever way they might agree to raise it, it 'should have these two qualities: one, that it should be a

\* *C. J. i. 444.*

† *Aston to —, July 24, 1610, S. P. Dom. lvi. 42.*

‡ *C. J. i. 451.*

§ *Cæsar* makes it only £85,000, before deducting the £20,000 for the decrease in the impositions; but this appears to be much too little (*Parl. Deb.* in 1610, p. 164). The King valued the Purveyance and the Wards at £80,000, which would leave £120,000.—*C. J. i. 444.* Even £80,000 represents rather what might be made of these sources of revenue, than what they actually produced.

CH. VIII.  
1610.

revenue firm and stable; another, that it should not be difficult in the levy.' They were, however, determined that not a penny should be laid upon the food of the people. A list was also drawn up of the concessions which were to be granted by the King, in which, in addition to the tenures and wardships, were named a considerable number of points in which the law or the prerogative pressed hardly upon the subject. Parliament was to meet in October to decide upon the mode in which the required sum was to be levied.

It is difficult to say which of the two parties to the bargain would have gained most if this contract had been finally carried out. To the King, it would have brought an increase of income of about £100,000,\* and with the exercise of some economy, would have enabled him to meet his expenditure for some time to come. But the increase of popularity which he would have derived from the concessions themselves, would have exceeded even the pecuniary advantages which would result from the contract. Every point given up would have removed some obstacle to the free working of the machine of government. Instead of looking upon the King as a burden, the existence of which was necessary for the present, the people would again have begun to regard him as a depository of power which was to be exercised for the good of the nation; and, by gaining the hearts of his subjects, he would have assured himself of their obedience. Nor would the tax-payers themselves have had any reason to complain of the consequences of the stipulated increase of taxation. They would have gained far more than the sum which the King lost by his concessions. An enormous amount of money, which never went into the pockets of the King, was intercepted by the lawyers, in consequence of the disputes which constantly turned on questions connected with the rights which were now to be abandoned for ever; and the annoyance caused by these disputes was almost as bad as the money actually spent upon them.

The memorial was presented to the House of Lords

\* *L. J.* ii. 660.

CH. VIII.

1610.

The King's  
answer to  
the griev-  
ances read.

on the 21st of July. Two days later, the King came down to prorogue Parliament. Before he did so he ordered that the clerk should read his answer to those grievances which he had reserved for further consideration. Upon this answer, in all probability, the future fate of the contract depended. If the King gave way in the points of which the Commons complained, every cause of variance between him and the House would have been at once removed, and he would have found no opposition to his demands during the next session. The Commons seem to have taken it for granted that they would receive a favourable answer, for they inserted in the memorial, as an argument by which they hoped to convince their constituents of the wisdom of their course in assenting to the contract, that they had obtained a gracious answer to their grievances.

Unfortunately, the main question in dispute was not of a nature to render an agreement probable. Was it likely that, after a steady refusal during so many years, to alter the existing system of ecclesiastical government, James would give way at last? Nothing less than this would content the Commons. They knew the importance of their demand, and, until it was granted, they could never be expected to render a hearty support to the Crown.

Ecclesi-  
astical  
griev-  
ances.

To their request that the deprived ministers might again be allowed to preach, provided that they abstained from criticising the institutions of the Church, James at once refused to listen. No Church, he said, had ever existed which allowed ministers to preach who refused to subscribe to its doctrine and discipline. If there were any particular cases where he could, without injury to the Church, reverse the sentence which had been pronounced, he should be glad to hear of them. To the old grievance of pluralities and non-residence he answered that it was impossible to do everything at once, but that he would order the Bishops to see that every minister who had two benefices supplied a preacher to instruct the people in his absence. To the complaint that excommunications were inflicted for trifling offences, he replied that the Bishops had agreed not to excom-



municate for contumacy as soon as the Parliament would pass a statute inflicting some other punishment upon that offence. He said that he would himself examine into the working of the Ecclesiastical Commission, and would take measures for preventing the recurrence of any irregularity which might have occurred. They knew how anxious he had been to settle the vexed question of prohibitions, and he hoped to bring the matter to a final settlement, in which the rights of the temporal courts should not be neglected.

CH. VIII.  
1610.

It is evident that these answers were intended to be conciliatory, and that James imagined that he had done his utmost to satisfy the Commons; but it is also evident that he had yielded nothing which they could accept. What they required was, that the exercise of the power of the Ecclesiastical Courts should be limited by statute, so that a barrier might be raised against any future encroachments of the clergy. What he offered was, that he would himself see that no abuses were committed. Even if they could trust him to decide rightly on such complicated questions, what assurance had they that all the restrictions which he might place upon the courts might not at any moment be swept away?

Two other grievances related to civil affairs. There had long been a complaint that the inhabitants of the four counties which bordered upon Wales had been subjected to the jurisdiction of the President and Council of Wales. The gentlemen of these counties had protested vigorously, as they were thereby deprived of the influence which, in other parts of the kingdom, they were accustomed to exercise in the courts of justice. There was some doubt whether the statute under which the jurisdiction was exercised really bore the interpretation which had been put upon it. To the demand of the Commons that he would exempt the four counties from the jurisdiction of the Council, James answered that he must make further inquiries before he could determine upon a subject of such difficulty.\*

The four  
shires.

\* The whole question is treated at some length by Mr. Heath in his introduction to the 'Argument on the Jurisdiction of the Marches,' in vol. vii. of Bacon's Works.

## CH. VIII.

1610.

## Proclamations.

The other grievance was of far greater importance. Since the accession of James, proclamations had been issued far more frequently than had been the custom in the preceding reign. Nor were they confined to the simple enunciation of the duties of the subject to obey the law. Some of them, as the Commons with justice complained, condemned actions which were forbidden by no existing law; others imposed penalties greater than those which were authorised by law, or prescribed that the accused persons should be brought before courts which had no right to try the offence. If these proceedings were not checked, the powers of legislation would, to all intents and purposes, fall into the hands of the King. James promised to be more careful in future, but he claimed a right of still issuing proclamations which went beyond the law, in cases of emergency, when no Parliament was sitting which could remedy the inconvenience. He engaged, however, to consult his Council and the judges on the subject, and to cause the proclamations already issued to be amended.

The members give an account of their conduct to the constituencies.

Immediately after these answers had been given, Parliament was prorogued, and the members dispersed to their several constituencies, to give an account of their conduct, and to ask the support of the nation in the measures which it would be necessary to take in apportioning the new burdens which were to be laid upon the country.

Of these conferences, excepting in one single instance, we know nothing. The electors of Leicestershire expressed their readiness to see the contract carried into effect, provided that the Bill for abolishing impositions were passed, and a more satisfactory answer were given to the petition of grievances.\* It is extremely probable that this was the general opinion of the whole country. It is certain that the Commons ought not to have been contented with less.

If James had been wise, he would have made use of the three months which passed before the commencement of the next session in coming to some conclusion upon

\* *Parl. Deb.* in 1610, p. 130.

the disputed points, in order that he might at once be ready to meet the Commons with the largest concessions which it was in his power to make. CH. VIII.  
1610.

Instead of this, he contented himself with making inquiry as to his right to issue proclamations which were not warranted by statute. On the 20th of September, Coke was sent for, and two questions were put to him by Salisbury, first, whether the King could by proclamation prohibit the building of new houses in London, and secondly, whether he could in the same way forbid the manufacture of starch. The first of the proclamations in question had been issued with the intention of checking what was then considered to be the overgrowth of the capital, the other in order to prevent the consumption of wheat for any other purposes than that of supplying food. Coke asked for leave to consult the other judges. It was in vain that the Chancellor, with Northampton and Bacon, attempted to draw out of him an opinion favourable to the Crown. They were obliged to allow him to consult with three other of the judges, and it was thought advisable to issue, on the same day, a proclamation by which the more obnoxious of the former proclamations were on various pretexts called in, though the King's right to interfere in cases of emergency was expressly reserved. A few days afterwards, the four judges delivered their opinion in the presence of the Privy Council. The King, they said, could not create any offence by his proclamation. He could only admonish his subjects to keep the law. Nor could he, by proclamation, make offences punishable in the Star Chamber which were not by law under the jurisdiction of that Court. That there might be no doubt of their opinions on this question, they formally declared that the King had no prerogative but that which the law of the land allowed him.

The judges  
consulted  
on the pro-  
clama-  
tions.

This firmness on the part of the judges was sufficient to check the attack which had been made upon the constitution. For some time proclamations imposing fine and imprisonment ceased to appear.\* When in the course of the following year a fresh proclamation was put forth

\* *Rep.* xii. 74.

CH. VIII. against the increase of buildings, James contented himself  
 1610. with directing that offenders should be punished according to the law. The names of the men who rendered this service to their country should never be forgotten. The three judges who joined Coke in this protest were Chief Justice Fleming,\* Chief Baron Tanfield, and Baron Altham. The King, however, took no pains to make this opinion of the judges known, and Parliament met under the impression that he was determined to maintain the right which he had claimed.

Opening  
of the  
session.

The new session commenced on the 16th of October. On the 19th, the House of Commons showed its determination to carry on its labours in the spirit of the former session by appointing a Committee to review the Bills which had failed in passing, and to select such as they thought were proper to be sent up once more to the House of Lords.† The Lower House was very thinly attended. On the 22nd not more than a hundred members were present. It was evident that there was little heart for the business upon which they were to be engaged. Still it was necessary to do something. On the 23rd a message was sent by the Lords to request the Lower House to meet them at a conference. Of that conference no account has been handed down to us. A few days later, however, the Commons sent to the Lords for a copy of the King's answers to the petition of grievances. It can hardly be doubted that they were hesitating to proceed with the contract unless they received a more satisfactory answer to their grievances. On the 31st, the day after they received the copy, they were summoned to Whitehall. James begged them to let him know whether they intended to go on with the contract or not. If not, he would take some other course for the supply of his wants. He was resolved to cut his coat according to his cloth, but he could

\* The occurrence of Fleming's name here should make us cautious in supposing that he was influenced by servility in his judgment on Bates's case. He was regarded by his contemporaries as an honourable man. In 1604 the House of Commons did him the high honour of requesting him to retain his seat upon his appointment to the office of Chief Baron.

† *Cott. MS. Tit. F. iv. fol. 130.* The proceedings of this session will be found in *Parl. Deb.* in 1610, 126—145.

do nothing till he knew how much cloth he was to have. CH. VIII.

1610.

Of the debates of the next two days, if any there were, we are in complete ignorance. On the 3rd of November, Sir Maurice Berkeley moved that the King should be informed that nothing could be done until a larger number of the members were present. The House was in no mood to offer such excuses. Sir Roger Owen followed by declaring the terms upon which he was willing to proceed—a course which was, doubtless, more satisfactory to those who were present than Berkeley's complimentary speeches. A full answer, he said, must be given to the grievances, and the King must resign all claim to lay impositions. The money granted in return must be levied in such a way as to be least burdensome to the country. The King must not be allowed to alienate the new revenue, nor to increase its value by tampering with the coinage. If doubts arose as to the meaning of any of the articles of the contract, they were to be referred to Parliament for explanation. Care must also be taken that the King did not allow himself to neglect summoning Parliaments in future, which he might do if his wants were fully supplied. Breach  
with the  
King.

It is not known whether these propositions were in any way adopted by the House. But the impression which they produced upon the King was instantaneous. It is probable that he no longer looked upon the contract with the eyes with which he had regarded it at the close of the former session. Representations had been made to him that, after all, he would not gain much by the bargain. Another £20,000 had been added to his expenditure to defray the annual expenses of the household of the Prince of Wales; and, at the same time, his income had been diminished by £8,000, in consequence of the concessions which he had made in his answer to the petition of grievances.\* His expenses would grow as his children grew up, and the proposed increase of his income would be insufficient to meet them. There was enough of truth in all this to take hold of a mind like that of James.

\* *Parl. Deb.* in 1610, 165.

CH. VIII. The revenue, even after the contract had been concluded,  
 1610. could only be made sufficient by an unremitting exercise of economy. It is true that after all deductions had been made, it would now reach £552,000; but on the other hand, at its present rate the expenditure was at least £620,000. In the face of this difficulty James was told that it would be possible for him to obtain the required revenue without having recourse to Parliament at all. By a little more care to the condition of his landed property, by putting in force with the utmost rigour all the rights which he possessed against his subjects, he might obtain a considerable increase of revenue. That by such proceedings he would certainly alienate the hearts of his people was a trifle hardly worth considering.\*

With such ideas in his mind, it must have been with considerable irritation that he heard of the determination of the Commons to include the grievances in the contract. He at once resolved to take up new ground. On the 5th, he sent a message to the House by the Speaker. In the first place, he told them that they must grant him a supply of £500,000 to pay his debts, before he would hear anything more about the contract. When the contract was afterwards taken up he expected to have a larger sum granted than he had agreed in the previous session to accept. Instead of taking £200,000 in return for the concessions which he was to make, he must have that sum in addition to the value of those concessions, or, in other words, he expected a grant of an additional annual revenue of £280,000. The whole of this sum must be so raised as to be 'certain, firm, and stable.' The House of Commons must also provide a compensation for the officers of the Court of Wards.

It was impossible that the Commons should consent to these terms. They informed the King that they could not proceed in accordance with his last declaration. The King accepted their refusal; and the negotiations, which had lasted so long, came to an end.

The King's answer was delivered on the 14th. The

Salisbury  
attempts to  
obtain a  
supply.

\* The rough draft of the paper printed in *Parl. Deb.* in 1610, 163, is in Caesar's handwriting; and Caesar, no doubt, laid the opinions which are there maintained before the King.

CH. VIII.

1610.

same afternoon a conference was held with the Lords. Salisbury was sad at heart at the failure of his scheme. 'He well perceived,' he said, that the Commons 'had a great desire to have effected that great contract,' and he knew 'that the King's Majesty had willingly given his assent to the same, and that yet, nevertheless, it proceeded not, wherein he could not find the impediment, but that God did not bless it.'\* If they would not proceed with the contract, they might perhaps be willing to supply the King's most pressing necessities. In that case the King would, doubtless, grant his assent to several Bills which would be of advantage to his subjects. He would do away with the legal principle that *Nullum tempus occurrit regi*. Henceforth a possession of sixty years should be a bar to all claims on the part of the Crown. He would grant greater securities to persons holding leases from the Crown. The creditors of outlaws should be satisfied before the property was seized in the King's name. The fines for respite of homage should be abolished. The penal statutes should be examined, and those which were obsolete should be repealed. The King would give up the right which he possessed of making laws for Wales independently of Parliament; and, finally, he would consent to the passing of the Bill against impositions as it had proceeded from the Commons in the last session.

When the Commons took these proposals into consideration, it was evident that they were not in a mood to come to terms on any grounds short of the concession of the whole of their demands. One member said that he 'wished the King would be pleased to live of his own, and to remove his pensions and lessen his charge.' It was 'unfit and dishonourable that those should waste the treasure of the State who take no pains to live of their own, but spend all in excess and riot, depending wholly upon the bounty of the Prince.' Another said that no supply ought to be granted unless the whole of their grievances were redressed. The next day the House was adjourned by the King's command until he had time to consider on the position of affairs.

Debate in  
the Com-  
mons.

\* These words were quoted by Fuller in a speech printed, without the speaker's name, in the *Somers Tracts*, ii. 151.

## CH. VIII.

1610.

The King's  
letter.

On the 26th they met again. A letter from the King was read, in which he promised to grant their requests in the matter of the prohibitions and the proclamations, as well as to give his assent to the Imposition Bill. With respect to the four counties, he would suspend his consideration of the question till Midsummer, and after that he would leave them to the course of law and justice.

On the 23rd, the King's letter was taken into consideration. Sharp things were said of the King's favourites, and especially of the Scotchmen by whom he was surrounded. It was finally agreed to thank the King for his proposed concessions, but to tell him that the House would not be satisfied unless he went further still.

Parlia-  
ment dis-  
solved.

Meanwhile James's patience was rapidly becoming exhausted. He had long been chafing under the language which was held in the House on the subject of the prodigality of himself and his favourites. He was determined to bear it no longer. He knew that at their next meeting the Commons would proceed to consider what fresh demands might be made upon him, and he was unwilling to allow them another opportunity of expressing their feelings. He complained of Salisbury, who continued to advise patience. He said that he could not have 'asinine patience,' and that he would not accept the largest supply which it was in the power of the Commons to grant, if they 'were to sauce it with such taunts and disgraces as' had 'been uttered of him and those that' appertained 'to him.' He accordingly ordered the Speaker to adjourn the House. It was with difficulty that his wiser counsellors prevented him from committing some of the members to the Tower.\* After a further adjournment, Parliament was finally dissolved on the 9th of February.

1611.

Com-  
mence-  
ment of  
the quarrel  
between  
the Com-  
mons and  
the King.

The dissolution of the first Parliament of James I. was the signal for the commencement of a contest between the two most important powers known to the constitution, which lasted till all the questions in dispute were finally settled by the landing of William of Orange.

When this Parliament had met, seven years before, the

\* Lake to Salisbury, Dec. 2 and 6, 1610, *S. P. Dom.* lviii. 54 and 62.



House of Commons had been content with temperately urging upon the King the necessity of changing the policy which he had derived from his predecessor in those points in which it had become obnoxious to the nation in general. Upon his refusal to give way, the Commons had waited patiently for an opportunity of pressing their grievances once more upon him. In 1606 they had been too much engaged in enacting statutes against the unfortunate Catholics to give more than a passing attention to these subjects. In 1607 the discussion of the proposed union took up the greater part of their time; but, in 1610, a fair opportunity was offered them of obtaining a hearing. James had flung his money away till he was forced to apply for help to the House of Commons. It was in vain that year by year his income was on the increase, and that he had added to it a revenue derived from a source which, in spite of the favourable judgment of the Court of Exchequer, was considered to be illegal by the majority of his subjects.

CH. VIII.

1611.

Course  
taken by  
the Com-  
mons.

When the King laid his necessities before them, they took advantage of the opportunity to urge their own demands. Step by step he gave way. He agreed to give up all the obnoxious rights which were connected with the feudal tenures. He would abandon the oppressive system of purveyance. A Bill should receive his assent, by which he was to be bound to raise no more impositions without the consent of Parliament. On one point alone he steadily refused to give way. The ecclesiastical system of the Church of England was to remain unchanged, with its uniformity of ceremonies and its courts exercising a jurisdiction which Parliament was unable to control. It was on this rock that the negotiations split. In a question of first-rate importance the King and the Commons were unable to come to terms.

The point  
in dispute.

The Commons fell back upon their acknowledged rights. If the King would not give way he should have no supplies from them. It has been sometimes said, that the Lower House had in this reign awakened to a sense of its powers, before it awoke to the duty which was incumbent upon it of supplying the necessities of

The Com-  
mons fall  
back upon  
their right  
to refuse  
supplies.

**CH. VIII.** the Crown. Never was any accusation more unjustly  
 1611. made. Even after the contract had been broken off, and the irritated members were declaiming against the Scotch favourites, there is no sign that the most angry amongst them would have thought of refusing any reasonable grant, if they could have been assured that the money would have been spent upon the real necessities of the Government, and that the King would be content to rule the country in accordance with the settled opinions of the nation.

Defects in  
the con-  
stitution.

In refusing to grant supplies, they took the only means which lay in their power of protesting against the system which they disliked. But it is hardly possible that there was a single man amongst them who was possessed of sufficient foresight to perceive that the course which they were taking must unavoidably lead to a revolution by which considerable changes would be effected in the constitution of England. In that constitution, as it had been handed down from the Middle Ages, the separation between the different powers by which the various functions of government were exercised had happily been preserved. Neither the Sovereign nor any single body of men had been able to reduce them all to dependence, nor had it been possible for any one element in the nation to override the others by the exercise of its own arbitrary will. But, admirable as all this was, experience has abundantly proved that this very division of powers which appears to be calculated to avert the encroachments of arbitrary power, conceals within itself the seeds of that danger against which it is intended to provide; for, unless some authority exists to guarantee the harmonious working of the whole machinery, a conflict will sooner or later arise between the existing powers, and such a conflict can only end by the victory of whichever one may happen at the time to be the stronger, and by the complete depression of the other.

Relations  
existing  
between  
the Crown  
and the  
House of  
Commons.

At the beginning of the seventeenth century, as at most other periods of our history, the constituencies by which the members of the House of Commons were returned were the proper depositories of this mediating influence, by which alone unity of action could be secured

in the conduct of affairs. In earlier times they had often settled all difficulties by the rough and ready method of an armed insurrection. But without recurring to such precedents as these, they had no power whatever of exercising any direct control over the proceedings of the executive Government. As long as the Sovereign and his ministers kept within the letter of the law, there was no power in existence which could legally prevent them from acting without the slightest reference to the welfare or the wishes of their subjects. The statutes upon which they based their proceedings might be utterly unsuited to the existing requirements of the people, the prerogatives which they claimed might be burdensome and oppressive in the highest degree; but without the consent of the Sovereign, it was impossible to take from him the smallest portion of those powers of which he had in any way become possessed. As far as the theory of the constitution went, he might exercise the authority which had been committed to him for the good of the people, only to torment and persecute his subjects.

An apparent safeguard was, to some extent, provided by the judicial institutions of the kingdom. James himself had, in his wiser moments, declared that he held his crown by the law, and, with the exception perhaps of a few of the clergy, the most ardent supporters of his prerogative always took care to assert distinctly that that prerogative was founded upon the law. To the judges, therefore, was entrusted the office of pronouncing a decision upon all questions in which the legal rights of the Sovereign came into collision with those of his subjects, and of checking him whenever he overstepped the limits which the law defined. But such a safeguard was almost, if not completely, illusory. Not only had the judges no power of interference in that large class of cases in which misgovernment was authorised by the law, but their tenure of office, depending as it did upon the good pleasure of the Crown, was such as to make it unlikely that they would long continue to hold the position which, under Coke's leadership, they had lately assumed. Even if the rights of the subject had been founded upon statute law alone, it would seldom have

CH. VIII.  
1611.

Illusory  
safeguard  
of the right  
of appealing  
to the  
Courts of  
Law.

## CH. VIII.

1611.

Import-  
ance of  
questions  
relating to  
taxation.

Necessity  
of a change  
in the con-  
stitution.

been difficult for a partial or a servile judge to explain away the true meaning of the words which he quoted. How much more easy was it to draw more closely the bonds which pressed upon the nation when the law had often to be determined from an immense and incoherent mass of uncertain precedents, of varying decisions, and of the constitutional theories of past ages which were assumed to be applicable to all time!

The decision upon the case of impositions had been rightly felt to be one which it was impossible for the House of Commons to pass by. Yet the only legal means by which it could influence the Government was by refusing supplies. If James could succeed, without violating the letter of the law as it was interpreted by the judges, in raising the revenue which he derived from other than Parliamentary sources to a level with his expenditure, this ground would be cut from beneath their feet. We can hardly wonder that James, being what he was, should have made the attempt. To give way would be to confess at once that the supreme control over the executive authority of the Crown had passed into the hands of subjects; and it must be admitted that there have been few Sovereigns who would have looked upon such a prospect with equanimity.

Yet, ignorant as James was of the fact, the change was inevitable. The only question was whether it should come as a graceful concession from the Sovereign, or be extorted by the menaces, or even by the arms of the nation. Every unpopular act which he committed, every shilling which he wrung from his subjects by the authority of doubtful decisions of the courts, would only hasten on the ruin which was before him. Whatever the judges might say, Englishmen knew that at least the spirit of the constitution was being openly violated, and it would be strange if the King did not at some time or other blunder into a breach of its letter. Men who were skilled in the mysteries of the English law were on the watch to detect any mistake which he might commit, and would be sure to ascribe it to a fixed determination to disregard all law whatever. However determined the opponents of the Government might be themselves to

observe the law, a time would come when they would be convinced that terms could no longer be kept with a law-breaking King, and that it would be necessary to effect a radical change in the constitution, and to bring the whole administration of government under the permanent control of the representatives of the nation.

CH. VIII.  
1811.

The path upon which England was advancing was not without its difficulties. It would not be enough to strip the Crown of those powers which were injurious to the well-being of the people; it would be necessary to support it in the exercise of those which were beneficial. The revolution must be conservative as well as destructive. If the House of Commons was to become the mainspring of the constitution, it would be found necessary to provide a series of checks which would be sufficient to moderate and to regulate its force, although they would be powerless to bring its action to a standstill.

Difficulties  
in the way.

Yet great as these difficulties were, no nation has ever entered with an equal prospect of success upon a course which was to end in a thorough change in the existing system of government. Happily for the country, it was only in its external institutions that any modification was required. The spirit of the constitution would still remain the same as it had been in the days of the Plantagenets. The nation had for centuries been accustomed to see its wishes carried out by its rulers after a delay of longer or shorter duration; and, what was of still greater importance, it had been accustomed to form its own opinions upon political questions, and to press them upon the Government. The leaders of the movement were able at once to give expression to the feelings of the people: they were not constrained to labour at the thankless task of kindling political fervour amongst classes which had long been accustomed to leave the whole management of public affairs to the public authorities. Nor was it a less hopeful sign that there were few or no social evils to be redressed; no war of classes to be apprehended; no aristocracy in possession of a prescriptive right to oppress all other classes in defiance

Hopeful  
position of  
the coun-  
try.

**CH. VIII.** of the law, or claiming immunity from the duties and  
 1611. services which should be common to every member of the community.

Feelings of  
the Com-  
mons.

Undoubtedly, as has been already said, there was not a single member of the House which was dissolved in 1611 who had the faintest conception of the real remedy for the evils against which he was desirous to provide. Everyone of them might have used the words which were afterwards spoken by Cromwell, 'I do not know what I want, but I know what I do not want.' In this feeling the nation fully shared until time and circumstances suggested various remedies, and of the many which were tried, one was at last found to be successful.

Their re-  
spect for  
personal  
liberty.

If there was to be a contest at all, there is no reason to regret that it was a prolonged one. Desirable as an agreement would have been between the King and the Commons, a victory which should have at once given the Lower House a complete control over the Government would have been injurious to the future welfare of the nation. It would have been to little purpose to substitute the arbitrary rule of the Commons for the arbitrary rule of the Crown. Parliamentary government is not always accompanied by liberty; and it was liberty which alone could really heal the evils under which England was suffering. The Commons had indeed already shown that their cause was the cause of liberty, but it was evident that they had still much to learn. Sad as was the strife which for many years divided England into two hostile camps, it did its work for good. In opposition to the power of the King, the nation gradually learned to understand what limits ought to be drawn round the exercise of all power, in whatever hands it might happen to be. In their seasons of adversity, the popular party acquired those lessons of toleration by which they continued to be inspired after the long conflict was over and the final victory had been won.

Political  
training  
of English-  
men.

But great as was the value of the political institutions of which England was possessed when she entered upon the revolution of the seventeenth century, it must never

be forgotten that those institutions were nothing more than the external form which the nation had shaped for itself. Their main importance lay in this, that they furnished a starting-point from which each generation could set out to do its own work. There was no need for Englishmen of that day to accomplish the work of centuries in a few years. There was no temptation to test once more the results of their ancestors' lives, and to sift the chaff from the wheat. To these institutions the whole nation clung with an attachment which gave birth to that love of law which was so often to restrain it from misdirecting its powers in the hour of danger, and to prevent it from abusing its success by the establishment of a despotism under the name of liberty.

CH. VIII.

1611.

Their love  
of law ;

If Englishmen were prepared for parliamentary government by their attachment to the laws, the comparative lightness with which those laws had hitherto pressed upon them had fitted them for the enjoyment of a more complete freedom from government interference than had fallen to their lot under the Tudor Sovereigns. Above all, the Protestantism which, especially in its extreme form of Puritanism, was likely, as the conflict grew warmer, to take deeper root in the minds of thinking men, was calculated not only to brace them for the approaching conflict, but to strengthen them against the temptations to license which would be certain to present themselves in proportion as the swathing-bands of State control began to fall off one by one. For the distinctive feature of Puritanism was not to be found in its logical severity of doctrine, or in its peculiar forms of worship, but in its clear conception of the immediate relation existing between every individual soul and its God, and in its firm persuasion that every man was intrusted with a work which he was bound to carry out for the benefit of his fellow-creatures. Under both these aspects it was preeminently the religion of men who were struggling for liberty. The Puritan was not his own. He belonged to his God and to his country. The motives which urged other men to give way before the corruptions of despotism had no weight with him.

and fitness  
for liberty.Puritan-  
ism.

CH. VIII.    The temptations which drew other men aside to make  
1611.        their liberty a cloak for licentiousness had no attractions  
for him. Under the watchwords of faith and duty our  
English liberties were won; and however much the out-  
ward forms of Puritanism may have fallen into decay,  
it is certain it is under the same watchwords alone that  
they will be preserved as a heritage to our children.



## CHAPTER IX.

PRESBYTERIANISM AND EPISCOPACY IN SCOTLAND  
THE PLANTATION OF ULSTER.

THE aspect in which, during the latter half of the sixteenth century, Scotland presents itself to the student of history, is in almost every respect the reverse of that in which England appears at the same time. That which is most remarkable in Elizabethan England is the harmony which results from the interdependence upon one another of the various elements of which the national life is composed. To the north of the Tweed, the same elements for the most part reappear; but they are seen standing out sharp and clear, in well-defined contrast to one another. The clergy are more distinctly clerical, the boroughs more isolated and self-contained, and, above all, the nobles retain the old turbulence of feudalism which had long ceased to be tolerated in any other country in Europe.

When the Reformation first passed over Scotland, there was a momentary prospect of a change which might to some extent obliterate the existing distinctions, and give rise to a real national union. Noble and burgher, rich and poor, joined with the preachers in effecting the overthrow of the medieval church; and it was by no means the intention of Knox and his fellow-labourers to erect a new hierarchy upon the ruins of the old. According to their theory, there was to be no longer any distinction between the laity and the clergy, excepting so far as the latter were set apart for the performance of peculiar duties. Of the forty-two persons

CH. IX.

1580-  
1572.Contrast  
between  
England  
and Scot-  
land.Knox's  
views of  
Church  
govern-  
ment.

CH. IX.

1560—

1572.

who took their seats in the first General Assembly of the Church of Scotland only six were ministers. Barons and earls were admitted to its consultations without any election at all. So far as the first Reformers had any distinct idea of the nature of the Assembly which they had called into being, they intended it to be a body in which the nation should be represented by those who were its natural leaders, as well as by those who had a closer connection with ecclesiastical affairs.

Desertion  
of the  
Church by  
the high  
nobility.

Such a scheme as this, however, was doomed to failure from the first. Here and there might be found individuals amongst the high nobility who gave themselves heart and soul to the Church of the Reformation, but, for the most part, the earls and barons were satisfied as soon as they had gorged themselves with the plunder of the abbey lands. They had no idea of meeting on terms of equality with the humble ministers, and they cared little or nothing for the progress of the Gospel. Nor was it indifference alone which kept these powerful men aloof: they had an instinctive feeling that the system to which they owed their high position was doomed, and that it was from the influence which the preachers were acquiring that immediate danger was to be apprehended. these men, in fact, were very different personages from those who were called by similar titles in England. A great Scottish noble exercised little less than sovereign authority over his own district. Possessed of the power of life and death within its limits, his vassals looked up to him as the only man to whom they were accountable for their actions. They were ready to follow him into the field at his bidding, and they were seldom long allowed to remain at rest. There was always some quarrel to be engaged in, some neighbouring lord to be attacked, or some hereditary insult to be avenged.

Strength  
of the  
ministers.

With the physical force which was at the disposal of the aristocracy, the ministers were for the time unable to cope. But they had on their side that energy of life which is certain, sooner or later, to translate itself into power. It was not merely that, with scarcely an exception, all the intellect of Scotland was to be found in their ranks ; their true strength lay in the undeviating

firmness with which they bore witness for the law of God as the basis of all human action, and the vigorous and self-denying activity with which they called upon all who would listen to them to shake off the bonds of impurity and vice. How was it possible that there should long be agreement between the men whose whole lives were stained with bloodshed and oppression, and the men who were struggling through good repute and evil repute to reduce to order the chaos in which they lived, and to make their native country a land of godliness and peace?

The compromise to which the nobility came with the ministers at Leith, in 1572, was for the aristocracy one of those apparent victories which give a certain presage of future defeat. Sorely against their will, the clergy were driven to consent to the institution of a Protestant Episcopate. The burghs and the lesser gentry were no match for the vassals of the great lords, and they were compelled to give way. But it was not a concession which did any credit to those to whom it had been made. They had not one single thought to spare for the country, or for the Church of whose interests they were thus summarily disposing. All they cared about was the wealth which might be gained by the scheme which they had adopted. The Bishops were to be duly consecrated, not in order that they might take part in that government of the clergy which is assigned to them in Episcopalian churches, but in order that they might have some legal title to hand over the greater part of their revenues to the nobles to whom they owed their sees. From that moment Episcopacy was a doomed institution in Scotland. It was impossible for any man to submit to become a Bishop without losing any remnant of the self-respect which he might originally have possessed. The moral strength which Presbyterianism gained from this compromise was incalculable. It soon became the earnest belief of all who were truthful and independent in the nation, that the Presbyterian system was the one divinely appointed mode of Church government, from which it was sinful to deviate in the slightest degree. Whatever credit must be given to the bold

CH. IX.

1572.

The Tulchan Episcopacy.

Doctrine of the Divine right of Presbyterianism.

CH. IX. and true-hearted Andrew Melville for his share in producing this conviction, it is certain that the disreputable spectacle of the new Episcopacy was far more effective than any arguments which he was able to use.

1581. It was in 1581 that the Second Book of Discipline received the approval of the General Assembly. By it the Church pronounced its unqualified acceptance of the Presbyterian arrangements which, with some slight modifications, have overcome all opposition, and have maintained themselves to the present day. It is evident that during the years which had passed since the introduction of the Reformation, the Assembly had become less national, and more distinctly ecclesiastical. Its strength lay in the fact that it represented all that was best and noblest in Scotland. Its weakness lay in the inevitable tendency of such a body to push principles to extremes, and to be forgetful of the difficulties by which the course of good order was obstructed in such a country.

Political nature of the Assemblies. That the Presbyterian Assemblies should become political institutions was probably unavoidable. In those days every religious question was also a political one, and the compact organization of the Scottish Church enabled it to throw no slight weight into the scale. With a wild, defiant feudalism surging around, and an enraged Catholic Europe ready to take advantage of any breach in the defences of Protestantism, the Scottish Church felt that every political movement involved a question of life or death for the nation of which it was in some sort the representative.

If indeed the ministers who guided the assemblies, and through them the various congregations, could have had the assurance that their Sovereign was a man in whom they could trust, much mischief might have been spared. Such a Sovereign, if he had been wise, would undoubtedly not have acted on every occasion as they would have wished. He would have given way before difficulties which they refused to acknowledge, and he would have striven to maintain the balance of justice where they would have been unable to recognise it, from the blindness which is the invariable accompaniment of

an excess of zeal. But it may fairly be concluded that, if the King had been able to inspire them with confidence, they would never have put forward their extreme pretensions to independence from the civil power.

CH. IX.

1581.

Unhappily, James was far from being such a man. When he first grew up to manhood, he was in the hands of unworthy favourites, who taught him the lesson, too congenial to his narrow mind, that the clergy were his true enemies. These favourites were known to be acting under the influence of the French Court, and it was strongly suspected that they were likely to favour the reestablishment of the Papal system by the help of foreign armies. Under such circumstances, the struggle in which the clergy were engaged speedily assumed a new form: it was no longer a question whether the property of the Church should be simoniacally conveyed away to a few degraded nominees of the nobility: it was a question whether, in the hour of Scotland's danger, free words might be spoken to warn the misguided King of the ruin which he was doing his best to prepare for himself and for his subjects.

Position of  
James.

James, ignorant of the folly of the course which he was pursuing, determined to make the ministers feel that force was still on his side. He knew that the greater part of the nobility would concur with pleasure in any measure which served to depress the clergy, and in 1584 he obtained from Parliament the Acts by which the whole government of the Church was placed in the hands of the Bishops.

1584.

The resto-  
ration of  
jurisdic-  
tion to the  
Bishops.

This second stage of the Protestant Episcopacy in Scotland was hardly less disgraceful than the first. The men who had consented to desecrate their office in order to assist the nobles in plundering the Church, were now ready again to expose it to derision by giving their aid to the King in his attempt to impose upon her his own arbitrary will.

For two years the struggle lasted between the King and the clergy, with various fortunes. At the end of that time even James himself could not help perceiving that his opponents were, in some degree, in the right. In 1586 the King of Spain was making preparations for

CH. IX.

1586.

James  
more  
friendly  
to the  
ministers.

the invasion of England; and if the throne of Elizabeth were overturned, Scotland could hardly hope to escape destruction. James had no wish to become a vassal of Spain and of the Pope, and he entered into a league with England for mutual defence against the enemy by whom both kingdoms were threatened. Such a change of policy naturally removed the principal obstacles to a reconciliation between the King and the clergy, and though it was impossible that any cordial sympathy should spring up between them, that kind of agreement existed which is frequently found between persons of a dissimilar temperament who are united in the pursuit of a common object. In spite of constant bickerings, the King, step by step, relaxed his pretensions, and at last, in 1592, gave his consent to an Act by which Presbyterianism was established in its integrity.

1593.

Defeat of  
the north-  
ern earls  
by James.

It was unlikely that this unanimity would last long. The quarrel, however, sprang up again sooner than might have been expected. Early in 1593 a conspiracy was detected, in which the Earls of Huntly, Errol, and Angus were implicated. Like so many others of the nobility, they had never accepted the Protestant doctrines, and their great power in the north-eastern shires made them almost unassailable. If they had been let alone they would probably have remained contented with their position, caring as little for the King of Spain as they did for the King of Scotland. But the ministers were bent upon the total extirpation of Popery, and the earls were led to place their hopes in a Spanish invasion. Such an invasion would free them from the assaults of a religion which was perhaps quite as unacceptable to them from its political consequences as from the theological doctrines which it propounded. James, when he discovered what was passing, marched at once into the north, and drove the earls headlong out of their domains.

He hesi-  
tates to  
make full  
use of his  
victory.

With one voice the clergy cried out for the forfeiture of the lands of the rebels, and for harsh measures against the Catholics. James, on his part, hung back from taking such steps as these. Even if he had the will, it may be doubted whether he had the power to carry out the wishes of the ministers. The nobles who had

led their vassals against Huntly and his confederates might be willing enough to render a Spanish invasion impossible, but they would hardly have looked on with complacency at the destruction of these great houses, in which they would have seen a precedent which might afterwards be used against themselves.\* Nor was the power of the earls themselves such as to be overthrown by a single defeat; every vassal on their broad domains was attached to them by ties far stronger than those which bound him to his Sovereign, and if the land were confiscated, many years would pass before the new owners could expect to live in safety without the support of a powerful military force.

It can hardly be supposed, indeed, that James was influenced by no other motives than these. He was probably unwilling to crush a power which served to counterbalance that of the ministers, and he lent too ready an ear to the solicitations of the courtiers who were around him. But whatever may have been his motives, he allowed the opportunity to slip which would have enabled him to extricate himself with credit from the difficulty. Whatever was done ought to have been done at once. James could not make up his mind till the earls were once more too strong to be put down without another war. At last he declared that they were to receive a full pardon for all that was past, but that they, as well as all other Catholics in Scotland, must either embrace the Protestant faith or leave the kingdom. If they chose the latter alternative they were to be allowed to retain their possessions during their exile.

\* 'I have been the day before the date of these with the King to receive answer in writing according to his promise. He hath deferred the same till my next repair. The effect I know; and it tendeth to satisfy Her Majesty with all promise on his part. But he disableth himself of means against the purposes of these great men who have embraced Spanish assistances in so dangerous degree. . . . As for the nobility of this land, they be so interallied, as, notwithstanding the religion they profess, they tolerate the opposite courses of the adverse part, and excuse or cloke the faults committed. The assured party is of the ministers, barons, and burghs. With these the King is bound, as he cannot suddenly change his course apparently. But yet of his secret harkenings by the mediation of them who be in special credit with him he is suspected.' Burgh to Burghley, March 30, 1593, *S. P. Scotl.* 1, 47.

## CH. IX.

1594.

Huntly  
and Errol  
driven into  
exile.

Such an award as this drew down upon the King the wrath of both parties. The ministers reviled it as overlenient to Popery, and the Catholics, with far more reason, looked upon it as an act of intolerable persecution. Huntly and Errol refused to accept the terms, and succeeded in defeating the troops which were sent against them under the Earl of Argyle. Upon receiving the news of this disaster, James once more marched into the north, and the ministers supported him with the money of which he was in need. The success of the Royal arms was immediate. All resistance was crushed at once, and the earls themselves were forced to take refuge on the Continent.

Import-  
ance of the  
King's  
victory.

This victory may be considered to be the turning point of James's reign in Scotland. It established decisively not only that the nation was determined to resist foreign interference, but that the King had now a national force at his disposal which even the greatest of the nobility were unable to resist. The Scottish aristocracy would long be far too powerful for the good of their fellow-countrymen, but they would no longer be able to beard their Sovereign with impunity.

1596.

Return of  
Huntly  
and Errol.

In the summer of 1596, Huntly and Errol were once more in Scotland. But this time they did not come to levy war upon the King; they were content to skulk in various hiding-places till they could receive permission to present themselves before him.

James was not disinclined to listen to their overtures. To drive the earls to the last extremity would be to ruin the work of pacification which he had so successfully accomplished. He had no wish to undertake a crusade in which he would find little assistance from any but the ministers and their supporters, and which would raise against him a feeling in the whole of the North of Scotland which might cause him no little trouble in the event of a contest arising for the English succession. On the other hand, he may well have thought that the earls had now learned that they were no longer capable of measuring themselves against their Sovereign, and that they would in future refrain from any treasonable undertakings.



These views, which were justified by the event, and in which he was supported by the statesmen by whom he was now surrounded, were not likely to find much favour with the clergy. Towards the end of August, a convention of the Estates was held at Falkland to consider what course was to be taken; and certain ministers who, as it is said, were likely to give a favourable reply, were summoned to declare their opinions. Amongst them, Melville presented himself, uninvited. He had come, he said, in the name of Christ Jesus the King, and his Church, to charge James and the Estates with favouring the enemies of both. Those who were present paid little heed to such objections as these, and gave it as their opinion that if the earls would satisfy the King and the Church it would be well to restore them to their estates.

Upon hearing what had passed, the Commissioners of the General Assembly, who were appointed to watch over the interests of the Church, during the intervals between the meetings of that body, invited a number of ministers to assemble at Cupar. These ministers, as soon as they had met together, determined to send a deputation to the King. This deputation was admitted to his presence; but when they began to lay their complaints before him, he interrupted them by questioning their authority to meet without a warrant from him. Upon this, Melville, who was one of the deputation, seized him by the sleeve, and calling him 'God's silly vassal,' told him, in tones which must long have rung in his ears, that there were two Kings and two kingdoms in Scotland: 'There is Christ Jesus the King,' he said, 'and his kingdom the Church, whose subject King James VI. is, and of whose kingdom not a king, nor a lord, nor a head, but a member. And they whom Christ has called and commanded to watch over his Church, and govern his spiritual kingdom, have sufficient power of him and authority so to do, both together and severally; the which no Christian King nor Prince should control and discharge, but fortify and assist.' He concluded by saying that the King's wish to be served by all sorts of men, Jew and Gentile, Papist and Protestant, was devilish and pernicious. It was a scheme adopted to balance the Protestants and the

CH. IX.

1596.

Conven-  
tion at  
Falkland.Meeting of  
the minis-  
ters at  
Cupar.Melville  
and the  
King.

CH. IX.  
1598.

Papists, in order that he might keep them both in check. By such a plan as this, he would end by losing both.\*

There was enough of truth in all this to make it tell upon the King. Whenever James succeeded in acting rightly, he generally contrived to do so from some wrong motive; and it is highly probable that the scheme which Melville thus dragged out to the light had more to do with his conduct towards the earls than any enlightened views on the subject of toleration. He was now frightened at Melville's vehemence, and promised that nothing should be done for the returned rebels till they had once more left the country, and had satisfied the Church.

The Commissioners  
at Edinburgh.

On the 20th of October, the Commissioners of the General Assembly met at Edinburgh. They immediately wrote to all the presbyteries in Scotland, informing them that the earls had returned with the evident purpose of putting down and massacring the followers of the Gospel, and that it was probable that the King would take them under his protection. Under these circumstances, every minister was to make known to his congregation the true nature of the impending danger, and to stir them up to resistance. In the meanwhile, a permanent Commission was to sit in Edinburgh to consult upon the perils of the Church and kingdom. Such a step might or might not be justifiable in itself, but there could be no doubt that it was an open defiance of the Government. From that moment a breach between the clergy and the Crown was inevitable.†

Character  
of the  
quarrel  
between  
the King  
and the  
clergy.

Of all the controversies which still perplex the historical inquirer, there is perhaps none which is more eminently unsatisfactory than that which has been handed down from the sixteenth century on the subject of the quarrel between James and the clergy. It is easy to say that in aspiring to political supremacy the clergy exceeded the proper limits of their office, and that in this particular instance they were animated by a savage spirit of intolerance. It is equally easy to say that they had no reason to repose confidence in James, and that the stopping of their mouths would be a national misfortune, as the freedom of the pulpit furnished the only means by

\* J. Melville's *Diary*, 368-371.

† Calderwood, v. 443.

which the arbitrary tendencies of the Sovereign could be kept in check. The fact seems to have been, that whilst the victory either of the King or of the clergy was equally undesirable, it was impossible to suggest a compromise by which the rupture could have been prevented. There was nothing in existence which, like the English House of Commons, could hold the balance even. Partly from the social condition of the country, and partly from the fact that the Scottish Parliament had never been divided into two Houses, that body was a mere instrument in the hands of the King and of the nobility; and if the mouths of the clergy were to be stopped, there remained no means by which the nation could be addressed excepting at the pleasure of the Government.

CH. IX.  
1506.

The weakness of the cause of the ministers lay in this—that they defended on religious grounds what could only be justified as a political necessity. That the General Assembly was in some sort a substitute for a real House of Commons; that the organization of the Church had been invaluable in counteracting the exorbitant power of the nobility and the thoughtless unwisdom of the King; and that the liberty of speech on political subjects which had been preserved in the pulpit had done service for which Scotland can never be sufficiently thankful, are propositions which no candid reader of the history of those times will ever venture to deny. But when the ministers asserted that these things were part of the Divine endowment of the Church, and claimed to maintain their ground in spite of all human ordinances to the contrary, they committed themselves to an assertion from which the common sense of all unprejudiced persons revolted.

Weakness  
of the  
cause of  
the clergy.

If James had been a great statesman, he would, on the one hand, have steadily asserted the right of the State to resist all independent political organization, and to bring before its tribunals all cases of treasonable or seditious language, wherever and by whomsoever it might be used. But, on the other hand, he would have applied himself with no less vigour to effect, as far as it might be possible, a reform in Parliament which might make it a truly national body, by including in it the

What  
James  
should  
have done.

CH. IX.  
1506.

elements which had as yet been found only in the Assembly ; and he would have taken care that charges against the ministers should be carried before an independent court, instead of being brought before the Privy Council, which was as much a party to the cause as the General Assembly itself.

Such a settlement of the question was rather to be wished for than to be expected. The nobility were sure to oppose such a change with all their might. Nor was James likely to look far beyond the immediate necessities of the moment. It might safely be predicted, therefore, that even if he tried to walk in the right path, he would be contented with silencing the antagonists by whom he was annoyed, without caring to make any provision against the evils which might result from his own victory.

Negotiations with the Commissioners.

It was some time, however, before he made up his mind that it would be safe to oppose the clergy, and he probably clung to the hope that some amicable arrangement might still be possible. He directed four members of the Privy Council to hold an interview with a deputation of the Commissioners, to declare, in his name, that he would do nothing for the earls or their followers till they had satisfied the Church ; and to ask whether, if the Church should think fit to release them from the excommunication which had been pronounced against them, he might receive them again into favour. To these propositions the ministers gave a decided answer. They reminded the King of his promise that he would not listen to the earls till they had again left the country. When they were once more out of Scotland, then, and not till then, the Church would hear what they had to say. But even if the Church saw fit to release them from its sentence, the King might not show favour to men who were under sentence of death for rebellion.

Black's sermon.

Some few days before this interview took place, Bowes, the English Resident at the Scottish Court, was informed that David Black, one of the ministers of St. Andrews, had, in preaching, used expressions insulting to the Queen and Church of England. Although he was at that time actively engaged in supporting the ministers in their

opposition to the King, he thought it right to protest against Black's offence. He found that James had already heard of the affair, and was determined to take steps to bring the offender to punishment.\*

Accordingly, when, a day or two after, the Privy Councillors reported the unyielding temper in which their proposals had been received by the ministers, the King replied to a deputation of the clergy, which had come for the purpose of complaining of their grievances, by telling them plainly that there could be no good agreement between him and them till the limits of their respective jurisdictions had been more clearly defined. For his part he claimed that, in preaching, the clergy should abstain from speaking of matters of state; that the General Assembly should only meet when summoned by him; that its decisions should have no validity till after they had received his sanction; and that the Church courts should not meddle with causes which properly came under the cognizance of the law of the land.†

CH. IX.  
1596.

The King's  
demands.

According to the ideas which are prevalent in our own day, these demands could only be met either by a frank renunciation of the independent position which had been

\* 'I received from Roger Aston this letter enclosed, and containing such dishonourable effects against Her Majesty as I have thought it my duty to send the letter to your Lordship. . . . The King, I perceive, is both privy to this address made to me, and also intendeth to try the matters objected against Mr. David Black. . . . The credit of the authors of this report against him is commended to be good and famous. Nevertheless, he hath (I hear) flatly denied the utterance of any words in pulpit or privately against Her Majesty, offering himself to all torments upon proof thereof. Yet, seeing the offence is alleged to have been publicly done by him in his sermons, and to be sufficiently proved against him by credible witnesses, I shall therefore call for his timely trial and due punishment' (Bowes to Burghley, Nov. 1, 1596, *S. P. Scotl.* lix. 63.) Aston's account in the letter enclosed and dated Oct. 31, is as follows:—'About fourteen days since, Mr. David Black, minister of St. Andrews, in two or three of his sermons. . . . most unreverently said that Her Majesty was an atheist, and that the religion that was professed there was but a show (P) of religion guided and directed by the Bishop's injunctions; and they could not be content with this at home, but would persuade the King to bring in the same here, and thereby to be debarred of the liberty of the word. This is spoken by persons of credit to the King, who is highly offended, and at his coming to Edinburgh will bring the matter in trial.' These extracts show that the charge against Black was a *bonâ fide* resistance to an insult supposed to have been directed against the Queen, and not a mere scheme to get up an attack against the privileges of the Church.

† Calderwood, v. 451.

CH. IX.

1596.

assumed by the clergy, followed by a request for permission to retain those rights which upon impartial investigation could be shown to be advantageous to their congregations, or by a denial that the State was sufficiently organized to make it probable that justice would be done to them if they renounced their exclusive privileges.

But such a reply was not likely to be made in the sixteenth century. The Edinburgh Commissioners, as soon as they heard what had passed, prepared to defend themselves against an attack upon what they considered to be the purely spiritual privileges of the Church. To them all interference with the Church courts was an assault made by King James upon the kingdom of Jesus Christ, of which they were the appointed guardians. We cannot blame them. If their logic was faulty, their instinct told them truly that, if James were allowed to gain a victory here, he would speedily follow it up by assailing them on ground which was more clearly their own. They therefore, at their meeting on the 11th of November, resolved to resist to the uttermost, and they were strengthened in their resolution by hearing that, the day before, Black had been summoned to appear on the 18th before the Council, to answer for the expressions which he was said to have used in his sermons.\*

Black  
summoned  
before the  
Council.

On the following day the Commissioners determined that Black should decline to allow his case to be tried before the King and Council. The King being applied to, told them that he would be satisfied if Black would appear before him and prove his innocence, but that he would not suffer him to decline the jurisdiction of the Council.

Under these circumstances a collision was unavoidable. The question was in reality only to be decided by allowing one of two parties to be judges in a case in which both of them were equally interested. No compromise was suggested on either side; nor, indeed, was any possible. Accordingly, on the 17th, the ministers drew up a declaration, which was to be given in by

\* Calderwood, v. 453. Summons of Mr. David Black, Nov. 10, 1596, *S. P. Scotl.* lix. 83.

Black on the following day, in which he protested, in their name and in his own, that the King had no jurisdiction over offences committed in preaching, until the Church had decided against the accused minister.\* Accordingly, on the 18th, Black appeared before the Council, and declined its jurisdiction. After some discussion, the final decision upon his case was postponed till the 30th.† The Commissioners at once sent the declinature to all the Presbyteries, in order to obtain their subscriptions to it,‡ in token of their agreement with the course which they had been pursuing at Edinburgh.

CH. IX.

1596.

On the 22nd, the King took a final resolution with respect to the Earl of Huntly. He decided that, as it was impossible to exterminate the whole of his following without great danger and difficulty, some terms must be granted, if the country were not to be exposed to a perpetual danger. He therefore required that the earl should find sixteen landowners who would enter into bonds for him that he would leave the realm on the 1st of April, if he had not previously satisfied the Church, that he would banish from his company all Jesuits, priests, and excommunicated persons, and that he would engage in no attempt to disquiet the peace of the country. At the same time James issued a proclamation, forbidding all persons to communicate with Huntly and Errol, and ordering preparations to be made for levying a force, which was to march against them if they should refuse the conditions which he had offered.§

Condi-  
tions to be  
exactd  
from the  
Earl of  
Huntly.

Two days later, the King heard that the ministers had sent the declinature to the Presbyteries for signature. He immediately directed three proclamations to be drawn up. The first prohibited the ministers from making any convocation of the barons or of any other of his subjects; the second charged those ministers who

Negotia-  
tions con-  
cerning  
Black.

\* This seems to be the natural interpretation of the phrase in *primis instantiis*, and agrees with the theory of the Church courts which prevailed at the time.

† Record of Privy Council, in McCrie's *Life of Melville*, note KK.

‡ Calderwood, v. 460.

§ The articles set down by His Majesty. Proclamation against the Earls, Nov. 22, 1596, *S. P. Scott.* lix. 69, 70.

CH. IX.

1596.

had come up from the country to return to their several parishes; and the third contained a new summons to Black to appear before the Council, to answer not merely for his reflections on Elizabeth, but for several contemptuous observations on the King himself and his authority.\*

Before, however, these proclamations were issued, an attempt was made by the ministers to come to terms with the King. Two or three days were spent in negotiations, which failed because neither party would give way on the main point. Accordingly, on the 27th,† the proclamations were allowed to appear.

The  
second de-  
clinature.

The next day was Sunday. Every pulpit in Edinburgh was occupied by a minister who put forth all his energies in animating the people to join in the defence of the kingdom of Christ, whose spiritual jurisdiction was attacked. Whatever effect these arguments may have had upon the minds of the hearers, they had none whatever upon the King. Black having appeared before the Council on the 30th, and having once more declined its jurisdiction, a formal resolution was passed to the effect that, as the Church had nothing to do with deciding on questions of treason and sedition, the Court refused to admit the declinature.

The King's  
offers re-  
fused.

Upon this James made another overture. If Black would come before him, and declare upon his conscience the truth concerning the matters with which he was charged, he should be freely pardoned. James forgot that he had to do with men who, whether they were right or wrong, were contending for a great principle, and who were not to be moved by such offers as this. They told the King that they were resisting him on behalf of the liberty of Christ's gospel and kingdom, and that they would continue to do so until he retracted what he had done.‡ James appears to have been to some extent intimidated by their firmness. Although the Council was engaged during the 1st of December in receiving depositions

\* Proclamations, Nov. 24, 1596, *S. P. Scotl.* lix. 72, 73, 74.

† Calderwood, v. 465. Bowes to Burghley, Nov. 27, 1596, *S. P. Scotl.* lix. 75.

‡ Calderwood, v. 482.



against Black,\* yet the King himself continued the negotiations into which he had entered, and on the following morning agreed to withdraw the acts of the Council upon which the proclamations had been founded, and to relinquish the proceedings against Black, on condition that he would, in the King's presence, make a declaration of the facts of his case to three of his brother ministers. Before, however, Black could be brought before him, James had, in consequence of the representations of some who were about him, changed his mind so far as to ask that he should acknowledge at least his fault towards the Queen.† This Black utterly refused to do, and the negotiations came to an end. The Council immediately assembled, and as he did not appear, proceeded to pronounce him guilty, leaving the penalty to be fixed by the King.

CH. IX.  
1590.

It was some days before the sentence was carried into effect. The negotiations which had been broken off were once more resumed. As before, both sides were ready to give way in everything excepting on the main point at issue. At last the King's patience was exhausted, and he ordered Black to go into banishment to the north of the Tay. Not long afterwards, the Commissioners were directed to leave Edinburgh, and the ministers were informed that those who refused to submit would be punished by the loss of their stipends.

Black  
banished  
beyond the  
Tay.

The Commissioners had not been long gone, when a fresh proposal was made by the King to the ministers of the town. It is unlikely that, under any circumstances, it would have been attended with satisfactory results. But, however that may have been, James did not give fair play to his renewed attempts at conciliation. Unfortunately, there were those, about the Court who were interested in bringing the quarrel to an issue. The King had for some months placed his confidence in a body of eight persons, who on account of their number went by the name of the Octavians. Under their

The  
Octavians.

\* Depositions, Dec. 1, 1590, *S. P. Scott*. lix. 83.

† He was to 'confess an offence done to the Queen at least.' Calderwood, v. 486.

## CH. IX.

1598.

The courtiers stir up the quarrel.

management the finances were being reduced to some degree of order, an operation which had only been rendered possible by a considerable reduction of the Royal expenditure. As a natural consequence, the Court was crowded with men whose income was curtailed by the economy which had lately come into fashion, and who longed for the downfall of the Octavians, in order that the money which was now spent upon worthier objects might once more flow into their own pockets. Accordingly, there were actually to be found amongst the courtiers some who were prepared to inflame the already sufficiently angry temper which prevailed on both sides, in order to make their own profit in the general scramble which would ensue. On the one hand, they informed the King that some of the citizens of Edinburgh kept a nightly watch round the house in which the ministers lived, and that they might at any time rise in insurrection against the Government. On the other hand, they told the ministers that the Octavians were at the bottom of all that had passed, and that it was through their means that the Popish lords had been allowed to return. James at once fell into the trap, and, on the night of the 16th, was foolish enough to order that twenty-four of the principal citizens of Edinburgh should leave the town. As soon as the courtiers knew that this order had been given, they wrote to the ministers, telling them that it had been procured from the King by Huntly, who, as they falsely alleged, had visited him shortly before it had been issued.

Meeting in the Little Kirk.

Deputation to the King.

On the morning of the 17th, Walter Balcanqual, after complaining in his sermon of the banishment of so many innocent persons, inveighed against the principal Octavians, and requested the noblemen and gentlemen who were present to meet with the ministers in the Little Kirk after the conclusion of the sermon. As soon as they were assembled, the meeting was addressed by Robert Bruce, one of the foremost of the Edinburgh ministers, and it was determined that a deputation should be sent to the King to remonstrate with him, and to demand the dismissal of his councillors. James

received them at the Tolbooth, and after some sharp words had passed on both sides, left the room without giving them any answer. Upon the return of the deputation to those who sent them, they found that the state of affairs had greatly changed in their absence. As soon as they had left the church, a foolish minister had thought fit to occupy the minds of the excited multitude by reading to them the narrative of the destruction of Haman, from the Book of Esther. Whilst they were attending to this, some one among the crowd, who, according to the popular belief of the time, had been suborned by the courtiers, raised a cry of 'Fly, save yourselves!' Upon this, the whole congregation, with their minds full of the supposed treachery of the Octavians and the Popish lords, rushed out into the street for the purpose of putting on their armour. In a moment the streets were full of an alarmed crowd of armed men, who hardly knew what was the danger against which they had risen, or what were the steps which they were to take in order to provide against it. Some of them, not knowing what to do, rushed to the Tolbooth, and demanded that the most obnoxious of the Octavians should be delivered up to them.

CH. IX.

1596.

Tumult in  
the streets.

Such a tumult as this was not likely to last long. The provost had little difficulty in persuading men who had no definite object in view to return to their homes, a task in which he received the full support of the ministers.

It is easily  
suppressed.

James's conduct was not dignified. He seems to have been thoroughly frightened by what was passing around him, and he sent at once to the ministers, to whose complaints he had so lately refused to listen, directing them to send another deputation to him at Holyrood, to which place of safety he proceeded under the escort of the magistrates, as soon as the tumult was pacified.

Behaviour  
of the  
King.

Accordingly, in the evening, the new deputation set out for Holyrood, carrying with them a petition in which, among other things, they simply demanded that everything which had been done to the prejudice of the Church during the past five weeks should be at once annulled. They can hardly have expected that James

## CH. IX.

1596.

would grant such a request as this. He was now no longer under the influence of terror, and everyone who was in his company during that afternoon must have urged him not to give way to such a gratuitous acknowledgment of defeat. If he had received the deputation, and had announced to them that, though he was ready to agree to any reasonable terms, he would not surrender the rights of the Crown, there would have been nothing to say against his conduct; but, instead of doing this, he was mean enough to employ Lord Ochiltree to meet the deputation on its way, in order that he might terrify or cajole them into returning without fulfilling their mission.\*

He leaves  
Edin-  
burgh.

The next morning James set off for Linlithgow, leaving behind him a proclamation commanding all strangers to leave Edinburgh at once, and ordering the removal of the Courts of Justice. It was evident that he intended to make use of the tumult of the day before to bring the question between the clergy and himself to an issue. No doubt he was determined to make the most of an affair which was in reality of very little consequence, but it is unlikely that he was influenced, as is generally supposed, by any very deep and hypocritical policy. In his eyes, the tumult must have assumed far larger proportions than it does to us, standing at this distance of time; and even if he had not been surrounded by men who were unwilling to allow the truth to penetrate to his ears, he would naturally suppose that the ministers had taken a far more direct part in the disturbance than had in reality been the case. The ministers certainly did not take such a course as was likely to disabuse him of his mistake. They wrote to Lord Hamilton, who, in consequence of his elder brother's insanity, was at the head of the great house which ruled over the important district of Clydesdale, begging him to come to Edinburgh, and to put himself at their head.†

\* Calderwood, v. 502-514. Spottiswoode (*Spottiswoode Society's* ed.) iii. 27, 32. Bowes to Burghley, Dec. 17, 1596, *S. P. Scotl.* lix. 87.

† Calderwood, v. 514. The letter, before it reached the King's hands, was in some way or other altered, so as to contain expressions of approbation of the tumult.

On the following day Bruce preached with all his energy against the assailants of the Church, and another minister allowed himself to make a violent personal attack upon the King. Accordingly, on the 20th, the magistrates of Edinburgh were ordered to commit as prisoners to the castle the ministers of the town, together with certain of the citizens, in order that they might answer for their proceedings on the day of the tumult. Bruce and some other of the ministers, knowing that they could not expect a fair trial at the hands of their opponents, sought safety in flight.\* Shortly afterwards, the Council declared that the tumult had been an act of treason. At the same time, the King issued a declaration, which he required every minister to sign, on pain of losing his stipend. By this signature, he was to bind himself to submit to the King's judicatory in all civil and criminal causes, and especially in questions of treason and sedition.

James was determined to show that physical force at least was on his side. There was scarcely a noble in Scotland who did not look with displeasure upon the pretensions of the clergy; and the King had soon at his command a force which made all resistance useless. On the 1st of January he entered Edinburgh, and received the submission of the townsmen. Going to the High Church, he declared his determination to uphold the reformed religion. At the same time, however, he refrained from any declaration of his intention to pardon those who had taken part in the late tumult, and left them with the charge of treason hanging over their heads.

It had not been very difficult to overpower the resistance of the ministers; but it was by no means so easy to devise a scheme by which such collisions might be prevented for the future. There were, in fact, only two ways in which it was possible to obviate the continual danger of a renewal of the quarrel. On the one hand, he might, if he were strong enough, recall into existence the abolished Episcopacy, or, in other words, he might attempt once more to keep the ministers in silence and

CH. IX.

1596.

Reduces it  
to submission.

1597.

Difficult  
position of  
the King.

\* Calderwood, v. 514-521; Spottiswoode, iii. 32-35.

CH. IX.

1597.

subjection by means of members of their own order. On the other hand, there was a proposal which had been often made for admitting the representatives of the Church to a share in the deliberations of Parliament, without giving to those representatives any title or jurisdiction derived from the Crown. Parliament would thus, it might be hoped, step in some degree into the place which was occupied by the body which bore the same name in England, so as to give full play to all the social forces which existed in the country, and to support the Crown in its efforts to mediate between the nobility and the clergy.

Scheme of  
Lindsay of  
Balcarres.

This last scheme had the advantage of the advocacy of the Secretary, John Lindsay of Balcarres,\* who was decidedly the ablest statesman in the country. Irreconcilably opposed to the pretensions of the ministers to an independent position, he was no less opposed to the equally exorbitant pretensions of the high nobility. It was to him that the representatives of the smaller landed gentry owed their introduction into Parliament. He hoped to be able by their means to counterbalance to some extent the votes of the heads of the great feudal houses. In the same spirit, he was anxious to see the representatives of the Church added to the numbers of those who were summoned to Parliament to treat of matters of national concern.†

\* The fact that he put it forward in the spring of 1596, in connection with a scheme which made the restoration of prelacy impossible, shows that he did not advocate it as a covert means of introducing Episcopacy. Calderwood, v. 420.

† It is generally supposed that the greatest difficulty would have been found with the High Presbyterian clergy. Yet if, as was in itself desirable, a stipulation had been made that the representatives of the Church in Parliament should always be laymen, it is unlikely that they would have resisted. At the Conference at Holyrood House in 1599, 'It was demanded, who could vote for the Kirk, if not ministers? Answered, it might stand better with the office of an elder or deacon nor of a minister, they having commission from the Kirk and subject to render an account of their doing at the General Assembly, and that, indeed, we would have the Kirk as fair enjoying her privileges as any other, and have His Majesty satisfied, and the affairs of the common weal helped; but not with the hinder, wreck and corruption of the spiritual ministry of God's worshipping, and salvation of his people' (Calderwood, v. 752). In 1592, at the time when the Acts confirming the Presbyterian system were passed, the English Resident wrote as follows:—'Sundry laws are made in favour of the Church; but

Yet specious as this scheme appears, it may well be doubted whether it would have been attended with any satisfactory results. It is true that if the evils under which Scotland was labouring had been merely the results of a defect in the institutions of the country, no plan could possibly have been devised which was more likely to be successful than the union in one body of what were in reality two distinct Parliaments legislating independently of one another, and constantly coming into collision. But the truth was, that the two Parliaments were in reality the leaders of two distinct peoples living within the limits of one country, and that any attempt to bring them to work together would only have been attended by a violent explosion. If, indeed, James had been a different man, and if he had from the beginning of his reign given a sympathizing but not unlimited cooperation to the cause of the ministers, which was in reality the cause of good order as well as of religion, he might have been able to mediate with effect between the two classes of his subjects. If, for instance, he had been a man such as was the great founder of the Dutch Republic, the clergy would at least have listened to him respectfully when he told them that, for political reasons, it was impossible to deal as they wished with the northern earls. At all events they would not have been goaded into unwise assertions of questionable rights by the supposition, which, however ill-founded, was by no means unreasonable, that the King was at heart an enemy to the Protestant religion as well as to the political pretensions of the clergy.

But this was not to be. James found himself in a position from which there was no satisfactory way of escape. Unwise as he was, and ignorant of the principles which lay at the basis of the connection between Church and State, he found himself led on, step by step, from an

CH. IX.

1597.

Not likely  
to succeed.Difficulties  
of James.

the request of the ministry to have vote in Parliament is denied, notwithstanding that they pressed the same earnestly, in regard that the temporalities of the prelates (having place in Parliament for the Church) were now erected and put in temporal lords and persons, and that the number of the prelates remaining are few and not sufficient to serve for the Church in Parliament') Bowes to Burghley, June 8, 1592, *S. P. Scott*. xlviii. 44). The real difficulty would have come from the nobles, if the ministers could have been convinced that the King was acting in good faith.

CH. IX.

1597.

undertaking in which he at first embarked with a view to restrain encroachments upon his own power, till, before his death, he had himself encroached far upon the proper domain of the clergy, and had sown the seeds of the whirlwind which was to sweep away his son.

It soon became evident that there were considerable difficulties to be overcome before the clergy and the nobility could be brought to work together in Parliament. It was not easy to obtain the consent of the ministers to the change, suspicious as they naturally were of the intentions which might be concealed under the King's proposal. The only chance of gaining the approval of a General Assembly lay in resorting to manœuvres from which a man of finer feelings than James was possessed of would have shrunk. It was well known that the character of the Assembly was in a great measure influenced by the locality in which it met, as few of the ministers were able to afford to travel from distant parts of the country. Accordingly, James summoned the Assembly to meet at Perth, in order that it might be convenient for the ministers of the north to attend. These men had never shared the feelings which animated their brethren in the south, and were generally regarded by the High Presbyterian party as ignorant and unlearned. There were, however, on this occasion special reasons which would move them to take part with the King. If they were in some measure cut off from the intellectual movement of Edinburgh and St. Andrews, they were far more practically acquainted with the power of the northern earls. If the confiscation of the lands of Huntly and Errol would in reality have served the Protestant cause, it cannot be doubted that these men would have been ready to cry out for it. In reality they must have known that they would have been the first to suffer from the confusion into which the country would have been thrown by any attempt to carry such a sentence into execution, and they were ready to support the authority of the King, which promised them the best chance of a quiet life for the future.

The  
northern  
ministers.

The  
Assembly  
at Perth.

When the Assembly met at Perth, on the 29th of February, the King was not contented with leaving



the northern ministers to come to their own conclusions. The courtiers were employed to flatter and caress them. They were told that it was time for them to make a stand against the arrogance of the Popes of Edinburgh. They were closeted with the King himself, who used all the arguments at his disposal to win them to his side. The result was seen as soon as the first great question was brought before the Assembly. They were asked whether the Assembly was lawfully convened or not. The High Presbyterian party declared that it was not, as it had been summoned by royal authority; but in spite of all their efforts, the question was decided against them.

As soon as this point was settled, James proposed thirteen articles, to which he wished them to give their replies. The question of the vote in Parliament he left to another occasion, but he obtained permission to propose to a future Assembly alterations in the external government of the Church. The Assembly also agreed that no minister should find fault with the King's proceedings until he had first sought for remedy in vain, nor was he to denounce any one by name from the pulpit, excepting in certain exceptional circumstances. The ministers were forbidden to meet in extraordinary conventions, and leave was given to the Presbyteries of Moray and Aberdeen to treat with the Earl of Huntly, who was asking, with no very good grace, for admission into the Protestant Church.

The King had thus gained the consent of the Assembly to the view which he took on most of the questions at issue between himself and the clergy. But it is certain that, by the manner in which he had influenced the votes, he had lost considerably in the estimation of all right-thinking men. A vote obtained by Court influence could not possibly have commanded the respect of those who were bound by it, and it was not by the shadow of legality which was thus thrown over the royal acts that the Melvilles and Blacks were to be restrained from pronouncing the whole affair to be a mere caricature of the true Assemblies of the Church.\*

\* Melville's *Diary*, 403-414. *Book of the Universal Kirk* (Bannatyne Club), 889.

## CH. IX.

1597.

The  
Assembly  
at Dundee.

Two months later another Assembly met at Dundee, principally composed of the same class of persons, and animated by a similar spirit. They agreed to accept the submission of Huntly, Errol, and Angus, and gave permission for their absolution from the sentence of excommunication which had been pronounced upon them. They consented that a commission should be granted to certain of the principal ministers to confer from time to time with the King's Commissioners on the subject of the settlement of the ministers' stipends, and to give their advice to the King on all matters concerning the affairs of the Church. This appointment was long afterwards regarded as the first step towards the introduction of Bishops. But it may be doubted whether as yet James had formed any such intention. At present, his wishes seem to have been confined to the discovery of some means by which his authority might be maintained, and his experience of the last two Assemblies may well have led him to suppose that he could effect his purpose far better by the use of his personal influence than by any change in the existing system of Church government.

Absolu-  
tion of the  
earls.

On the 26th of June, the three earls were released from their excommunication at Aberdeen, upon declaring their adhesion to doctrines, at which they must have secretly revolted. However necessary it might have been to relieve them from civil penalties, the ministers who had hung back from countenancing this scene of hypocrisy stand out in a bright contrast to the King who forced the supposed penitents to submit to such an indignity.

In the course of the following month the Edinburgh ministers were again permitted to occupy their pulpits. The town had some time before been pardoned for the tumult of the 17th of December, but not until a heavy fine had been exacted from it.

Condition  
of the  
kingdom.

James now seemed to have established his authority on a sure foundation. Huntly and the great nobles were reduced to live for the future as peaceable subjects. The return of the exiles had not been attended with the results which the ministers had predicted. From this time we hear no more of intrigues with foreign powers for the overthrow of the monarchy. The Church, too,

had, by means which will not bear too close inspection, been induced to renounce some of its most exorbitant pretensions, and it seemed as if days of peace were in store for Scotland.

CH. IX.  
1597.

Everything depended on the spirit in which James took in hand the measure by which he hoped to obtain for the ministers a vote in Parliament, and on the success by which his efforts were attended. On the 13th of December, Parliament met, and the Commissioners appointed by the last Assembly, who had no doubt come to an understanding with the King, petitioned that the Church might be represented in future Parliaments. Here, however, they met with unexpected obstacles. The great men who sat in Parliament were by no means willing to see their debates invaded by a crowd of ministers, or even by lay delegates who should be responsible to an ecclesiastical assembly. Unwilling to assent to the proposal, and yet, being desirous not to displease the King, they passed an Act authorising those persons to sit in Parliament who might be appointed by the King to the offices of Bishop or Abbot, or to any other prelacy. Such an Act was in reality in direct opposition to the petition which had been presented. The Commissioners had asked for seats for representatives of the clergy. The Parliament granted seats to two classes of persons: to laymen who had accepted ecclesiastical titles in order to enable them to hold Church property, and to ministers who were appointed by the King, and who need not have any fellow-feeling at all with their brethren. It was said at the time that those who assented to this Act were induced to do so by the belief that no minister would accept a bishopric from the King, and that they would thus be able to shelve for ever so distasteful a subject. At the same time, they took care to point out that their wish was that the new Bishops should, if they ever came into existence, be employed to exercise jurisdiction of some kind or other, by enacting that the King should treat with the Assembly on the office to be exercised by them 'in their spiritual policy and government in the Church.'\*

Proposal  
that the  
clergy  
should  
have a  
vote in  
Parlia-  
ment.

\* *Acts of Parl. Scotl.* iv. 130.

CH. IX.

1598.

Assembly  
at Dundee.Andrew  
Melville  
forbidden  
to sit.

On the 7th of March, 1598, the Assembly met once more at Dundee. As on former occasions, every influence was used to win over the members to support the policy of the Court. There was one, however, amongst those who had presented themselves who was known to be intractable. Andrew Melville was not to be seduced or intimidated in the performance of his duty. James had, accordingly, in no very straightforward way, taken measures to prevent his sharing in the discussions of the Assembly. In the preceding summer he had himself visited St. Andrews, and, under his influence, a new rule had been laid down by which all teachers in the University who did not at the same time hold a ministerial charge were prohibited from taking any part in Church assemblies. He now, in virtue of this rule, which can hardly have been made except for the express purpose of excluding the great leader of the Church party, refused to allow Melville to take his seat.

The King's  
proposal  
allowed.

It was not without opposition that the King carried his point. He declared that what he desired was not to have 'Papistical or Anglican Bishops.' He wished that the best and wisest of the ministry should take part in the deliberations of the Council and of the Parliament, in order that they might be able to speak on behalf of the Church. He himself took a share in the debates, and allowed himself to make an unfair use of his position to interrupt the speakers, and to bear down all opposition. At last, by a small majority, the Assembly decided that fifty-one representatives of the Church should vote in Parliament. The election of these was to pertain in part to the King and in part to the Church. They did not think fit to descend any farther into particulars at the time. An opportunity was to be allowed to the various Presbyteries and Synods to consider of the precise position which was to be occupied by the future voters. A convention was afterwards to be held, at which three representatives of each Synod and six doctors of the Universities were to be present. It was only, however, in the improbable case of the Convention being unanimous on the points which were to be submitted to it, that its decision was to be final in settling the position

of the representatives of the Church. If differences of opinion arose, a report was to be made to the next General Assembly, which would itself take the matter in hand.

CH. IX.  
1598.

Accordingly the Convention met at Falkland, on the 25th of July, and decided that the voters should be nominated by the King out of a list of six, which was to be submitted to him by the Church upon each vacancy. The voter, when chosen, was to be responsible for his actions to the General Assembly, and was to propose nothing in Parliament for which he had not the express warrant of the Church.\* As, however, the meeting was not unanimous, the final decision was left to the next General Assembly.

The Con-  
vention at  
Falkland.

It is obvious that this scheme was entirely different from that which had been proposed by the Parliament. What the Convention had agreed upon was the admission of a body of men into Parliament who would be able to keep in check the temporal lords. What the Parliament had consented to was the admission of men who would assist the Crown and the nobility in keeping in check the clergy. Between these two plans James was now called upon to decide. As far as we can judge, he had hitherto been in earnest in his declarations that he had no wish to reestablish Episcopacy. He was at no time able to keep a secret long, and, if he had been acting hypocritically, his real sentiments would have been certain to ooze out in one quarter or another.† But,

\* Calderwood, vi. 17.

† There is, of course, no direct evidence on one side or the other. But the frequency with which James's design of establishing the Bishops is spoken of by Nicolson in his despatches to the English Government in the course of the following year, warrants us in founding upon his silence at an earlier period a strong presumption that there was no such design formed up to the autumn of 1598. The following passage in a letter written when the subject was before Parliament in 1597 is interesting:—'The same day the articles given by the Kirk was dealt in again. The King seemed willing to have yielded them contentment, and so they acknowledge it in the pulpit and otherways. But the Council was against them, saying, if they should have place in Parliament and Council, it were meet for the King's honour that they had the title of some degree by the name of some degree of prelate, and so they should be of more estimation with the people, saying that when the Queen of England called any to be of her Council for their wisdom, she honoured them with the title of Knight or other degree, and without some degree of prelacy or other it was not meet they should have

CH. IX.  
1598.

however this may have been, he certainly had not taken all this trouble in order to introduce fifty-one delegates of the General Assembly within the walls of Parliament. What he wanted was a body of men who would give weight to the decisions of Parliament in dealing with the cases in which there had hitherto been a conflict between the two jurisdictions; and it is no wonder that he thought that he could have attained his end, if a certain number of representatives had been elected for life. As far as we can be justified in ascribing to James any definite plan at all, it is probable that he expected that the Parliament, thus reinforced, would support him in the maintenance of his jurisdiction in all external matters, whilst all purely ecclesiastical affairs would be left, as before, to the General Assembly.

James  
thinks of  
restoring  
Episco-  
pacy.

The best thing James could have done would have been to throw up the whole scheme, and to wait for better days. The distrust existing between the nobility and the clergy, and the little confidence with which he was regarded by the ministers, rendered his conciliatory proposal incapable of being carried out. It was certain that the scheme of the convention would never be accepted by Parliament, and even if this had not been the case, it would probably have been impossible to reduce it to working order. The time might come when a wise and firm Government might be able to overcome the difficulties by which the double representation of the nation was encumbered; but that time had not yet arrived.

Nor was it likely that James would do anything to anticipate such a time. He became more and more enamoured of the measure which had been proposed by the Parliament, and he felt an increasing desire for the re-establishment of Episcopacy as the only possible means of bringing the clergy to submit to his own authority. With Episcopacy as an ecclesiastical institution, he had,

place in his Council, thereby thinking the ministers would not receive title and place thereby. But the King, seeing the lords would not otherwise agree unto their motion, willed them not to refuse it, promising to find a \_\_\_\_\_? for them therein. Wherein they retain the matter to their choice until they may advise with the General Assembly.' Nicolson to Cecil, Dec. 23, 1597, *S. P. Scott*. lxi. 75.

at least as yet, no sympathy whatever. He regarded it simply as a device for keeping the clergy in order, and he did not see that by the very fact of his clothing the officials who were appointed by him for this purpose with an ecclesiastical title, he was preparing for himself a temptation which would soon lead him to interfere with those strictly ecclesiastical matters which were beyond his province. He had hitherto been in pursuit of an object which was at least worthy of the efforts of a statesman. He was now entering upon a path in which the wisest man could not avoid committing one blunder after another.

It was in preparing the 'Basilicon Doron,' the work which James drew up in the autumn of this year,\* for the instruction of his son, and which, as he intended it to be kept from public knowledge, may be supposed to contain his real thoughts, that he first gave expression to his opinions on this subject. In this book he spoke clearly of his wish to bridle the clergy, if possible, by the reintroduction of Bishops into the Church. He was not likely to feel less strongly in the following year, when he was again irritated by a renewal of his old quarrel with Bruce and the ministers of Edinburgh, respecting the amount of license which was to be allowed to them in speaking of State affairs in the pulpit. At the same time, his own conduct was such as to give rise to grave suspicions. Not only did the sentiments expressed in the 'Basilicon Doron' become generally known, when it was found impossible to keep the existence of the book any longer a secret, but he allowed himself to engage in those intrigues with the Catholic Powers of Europe, in the hope of obtaining their support at the death of Elizabeth, which afterwards gave rise to so much scandal. Seton, the President of the Session, and Elphinstone, who had lately become Secretary in the place of Lindsay of Balcarres, were known to be Catholics. Montrose, who had long befriended the Northern Earls, was appointed Chancellor, and Huntly

CH. IX.

1598.

The 'Basilicon Doron.'

1599.

\* The earliest mention of the book is probably in the undated advices from Nicolson, ascribed by Mr. Thorpe to October, 1598, *S. P. Scott.* lxiii. 50.

CH. IX. himself was constantly seen at Court, and was raised to  
 1599. the dignity of a Marquis, an honour which was by no means counterbalanced in the eyes of the clergy by the gift of a similar title to the Protestant Hamilton.

Conference at Holyrood. Towards the end of 1599, James determined to make a last attempt to change the purpose of the ministers. The Assembly was to meet at Montrose in March, but he thought that before he presented himself before it, it would be well to summon a conference of the principal ministers to meet him at Holyrood in the preceding November. It was in vain, however, that he did his best to induce them to agree to the appointment of representatives for life, and to his proposal that these representatives should bear the title of Bishops.\* When the Assembly met at Montrose, no better success attended his efforts. It was there decided, that the voters should only hold their position for a year, and that they were to be tied down by such a body of restrictions that it would be impossible for them to be anything else than the obedient servants of the Assembly.

1600.  
 Assembly  
 at Mont-  
 rose.

Appoint-  
 ment of  
 Bishops.

James had thus brought himself into a position from which it was difficult to extricate himself with dignity. He must either assent to the nomination of voters who would never be permitted to vote, or he must appoint Bishops who, unless he could contrive to impose them by force upon the unwilling Church, would not be allowed to exercise any jurisdiction whatever. Under these circumstances, everything combined to lead him to choose the alternative which was offered by the Parliament. It was not, however, till after the strange incident of the Gowrie Plot had brought him once more into collision with the ministers who refused to believe his explanation of that mysterious occurrence, that he made up his mind to take the final step.† On the 14th of

\* Calderwood, v. 746.

† As I am not writing a history of Scotland, but only so much of it as may account for the influence which Scotland afterwards exercised over England, I have avoided going into details upon such matters as the Gowrie Plot. I may as well say, however, that I am not sure that the case against the Logan letters is fully made out. The arguments against them are not without weight, but on the other hand it seems impossible that a forger should not have inserted some direct statement of the existence of a plot



October, 1600, he summoned a Convention of Commissioners from the various synods, whose consent he

CH. IX.

1600.

against the King. Indeed, whatever the imagination of readers may have seen in these letters, it is plain that they contain no evidence whatever of such a plot being in existence.

I have sometimes thought that the Ruthvens, on their return, finding, as we know they did, that a powerful party at Court was opposed to them, and was using threatening language concerning them, determined to anticipate the blow by an attack, not upon the King, but upon their enemies of an inferior degree. That something of the sort was expected, we know from the fact that Stewart, who had taken a prominent part in the apprehension of the Earl of Gowrie's father, applied for service under Elizabeth, from his eagerness, as was believed at the time, to escape from the vengeance of the Ruthvens (Hudson to Cecil, *S. P. Scott*. lxi. 43). It does not seem impossible that, after the schemes of the Ruthvens had been laid, Alexander Ruthven may have persuaded his brother to let him try the effect of a private interview with the King at Gowrie House, in which he might half persuade him, half terrify him into inflicting punishment upon those whom he regarded as his father's murderers. We know that Alexander Ruthven was at the time in favour with the King, who had been attempting to persuade the Earl to make over to him the Abbey of Scone. (The True Discourse, &c. *S. P. Scott*. lxi. 50.) He may, therefore, in his impetuous, inconsiderate way, have supposed that he would have no difficulty in obtaining his object.

If this interpretation be correct, Ruthven would have placed Henderson in the turret chamber, not with any intention of employing him against the King, but simply from the wish to have help at hand in case of necessity.

Amongst the rumours which flew over the country after the death of the Ruthvens, there was one which reached the ears of Sir W. Bowes which is worth preserving. 'The King,' he says, 'being ready to take horse, was withdrawn in discourse with the Master of Gowrie, a learned, sweet, and hurtless young gentleman, and one other attending. Now, were it by occasion of a picture (as is said), or otherwise speech happening of Earl Gowrie his father executed, the King angrily said he was a traitor; whereat the youth showing a grieved and expostulatory countenance, and, happily, Scot-like words, the King, seeing himself alone and without weapon, cried "Treason, treason!"'—*S. P. Scott*. lxi. 64.

The letter was written in England and was founded on mere rumour, and many of its details are incorrect. But does it not point to a probable solution? What if, as soon as Ruthven had brought the King into the gallery, he required from him a promise to avenge his father's murder? It will be remembered that in the struggle which followed he referred to a promise, which, as it stands, is unexplained. For answer, James, it may be supposed, blurs out an assertion that Ruthven's father was a traitor. The hot-headed young man takes fire, draws the King into the turret chamber, where he knows that a dagger is to be found, and all that has been handed down to us upon Henderson's evidence follows naturally enough.

Some few years ago a writer in the *National Review* (No. vi.) published a most able argument on the subject. Unfortunately he was altogether unaware of the documentary evidence in Pitcairn's *Criminal Trials*. This evidence proves that James was substantially truthful in his narration of the facts of the case, including even the story of the pot of gold, though he evidently concealed intentionally all that had passed prior to his entry into the turret chamber. The only part of James's statement which is, allowing for his agitation at the time, incredible, is his declaration through Galloway that Gowrie had invited him to change his religion.

Of course, my explanation is merely conjectural; but in such matters it is

CH. IX.

1600.

obtained to the appointment of three Bishops in addition to the few who were still surviving from amongst those who had been formerly nominated. They took their seats, and voted in the Parliament which met in November,\* but they had no place whatever assigned to them in the organization of the Church. The exact part taken by the Convention in this nomination is uncertain; but it is clear that, as they were not a General Assembly, they had no right to act in the name of the Church. The rank, therefore, of these new Bishops cannot be regarded as anything more than that which could be derived from a civil appointment by the Crown, which was covered over by the participation of a few ministers who were altogether unauthorised to deal with the matter. The whole of the labours and intrigues of the last three years had been thrown away, and James had done nothing more than he might have done immediately upon the passing of the Act of Parliament in 1597.†

Position of  
the King.

The position in which the King and his Bishops found themselves was fraught with peril to the future interests of the country. By the very nature of their office, the Bishops could hardly refrain long from interfering in Church affairs, and they could not possibly interfere without rousing the opposition of all that constituted the real strength of the country; for, after all, what-

more easy to suggest a solution than to support it with conclusive arguments. At all events, the reviewer's introduction of the scandal about the Queen seems to me unnecessary.

\* Calderwood represents them as being chosen by 'the King with his Commissioners and the ministers there convened.' Nicolson writes, 'According to my last, the King laboured the erecting of the Bishops exceeding earnestly; yet for that the same was to be done with general allowance of the Kirk, he directed the Lord President, Secretary, and others to confer with the Commissioners of the Kirk, who, standing upon what was set down at the General Assembly last at Montrose, the King not pleased therewith, nor with the coldness of the estates therein, got it consented unto that the three new Bishops . . . should have vote with the prelates, and so they had it this day, leaving their further authorities to the next General Assembly. Nicolson to Cecil, Nov. 15, 1600, *S. P. Scott*, lvi. 96.

† Writers frequently speak of the King's Bishops as if they were in some way connected with the appointment of commissioners assented to by the Assembly of Montrose. Such, however, is evidently not the case. They derived their title simply from the Act of Parliament, and the prerogative of the Crown. At the Assembly which met at Burntisland in 1601, there seems to have been no reference to the Bishops on either side.

ever may have been the exorbitance of the pretensions of the ministers, it must never be forgotten that their cause was the true cause of all spiritual and moral progress in Scotland. It was this which, in the midst of errors and extravagances, made the Melvilles and their comrades to be, in the highest sense, in the right, even when they were formally in the wrong, and which enabled them to look down upon the King and the nobles, the courtiers and the Bishops, who regulated their steps by that uncertain guide of temporary expediency which was sure to lead them astray in the end.

It is usually taken for granted that the accession of James to the throne of England enabled him to interfere with greater weight in Scottish affairs, and that it contributed in no small degree to the subsequent overthrow of the Presbyterian system. There can be little doubt that the effects of the change have been considerably exaggerated. It is true, indeed, that James was now safe from personal attack, but for any practical purpose his strength was hardly greater than it was before. He found no standing army in England which might serve to overawe his Scottish subjects, and, even if he had attempted to raise forces to suppress any movement in the north, he would certainly have roused a spirit of resistance in all classes north of the Tweed. Nor was the money which he squandered upon some of his countrymen likely to conciliate opposition. The men whose names figure in the accounts of the English Exchequer as receivers of pensions or of gifts, the Hays, the Ramsays, and the Humes, were not the men who held the destinies of Scotland in their hands. The great nobility who now formed the chief supports of the throne, and the statesmen who carried on the government of the country in the name of their Sovereign, were not appreciably the richer for the change which had placed James upon the throne of England.\*

Whatever may have been the value of the victory which had been won by the King, it was at least won by

CH. IX.

1600.

1603.

Effects of  
the King's  
accession  
to the  
English  
throne.

\* In one or two instances the salaries of Scotch officials were paid out of the English Exchequer, but these were of no great amount.

## CH. IX.

1603.

His success  
owing to  
his coalition  
with the nobility.

Scottish hands. It is to the coalition between the Crown and the nobility that the success of James was owing. The nobility, having abandoned the hope of retaining their independence, were eager to obtain in exchange the direction of the government of the country. Before such strength as they were able to put forth when united under the Crown all resistance on the part of the clergy was impossible, and, with very few exceptions, they looked with jealous eyes upon the growing strength of the Presbyterian Church. The eloquence and the moral vigour of the clergy still caused James to hesitate before proceeding to extremities; but it is unlikely that, under any circumstances, he would have long refrained from putting forth his power, and he certainly was not possessed of sufficient wisdom to shrink from using for that purpose his creatures the Bishops.

If, however, the change in James's position did not enable him to throw any greater weight than he had hitherto done into the scale of Scottish ecclesiastical politics, it was such as to make him look upon the contest in which he had been engaged from a new point of view, and to inspire him with greater resolution in dealing with that system of Church government which was every day assuming darker colours in his eyes. A year or two of English experience only made him more determined in his attempt to impose upon the Scottish clergy the detested yoke of an uncongenial Episcopacy.

James's  
support of  
Episcopacy.

Instead of using the superiority of physical force, which he derived from the support of the nobility, to bring by fair and open means all civil misdemeanors of the clergy under the jurisdiction of the State, he allowed himself to be led on to sap their independence by means of what was, in name alone, an ecclesiastical institution. The example of the English Church was too enticing, and the contrast between the convocation of the province of Canterbury and a Scottish General Assembly was too striking, not to make him desirous of effecting a change in the ecclesiastical institutions of his northern kingdom, which would free him from what he considered as the disorderly scenes which, when he had been in Scotland,

had so continually interfered with the carrying out of his most cherished projects. CH. IX.

1604.

The materials do not exist which would enable us to know how this determination grew by degrees into a settled purpose in James's mind; but we shall probably not be far wrong in supposing that, when he left Scotland in 1603, he looked upon the change as one which was desirable in itself, but not as one which he had any immediate intention of attempting to carry out. His first interference upon a large scale with the Church, after he left Scotland, was his postponement for a twelvemonth of the General Assembly which had been appointed to meet at Aberdeen in July, 1604. He seems to have wished that the discussions of the Commissioners, who were to meet in London to bring into shape the terms of the proposed union, should not be forestalled by the debates in the Assembly. But either from deliberate intention, or from mere blundering carelessness, James, in taking this step, set aside, upon his own responsibility, the law of the land. By the Act of 1592, to which the Presbyterian system owed its legal establishment, it was declared to be lawful for the Church to hold its General Assemblies at least once a year, if certain forms which had been complied with on this occasion were observed. And he had himself, at the last meeting of the Assembly, given his consent to the observance of this Act for the future.

Postponement of the Assembly appointed to meet at Aberdeen.

Such disregard for the rights of the clergy was sure to draw upon James the suspicions of all who revered the existing constitution of the Church. In spite of the King's orders, the Presbytery of St. Andrews, which was always the first to start forward as the champion of Presbyterianism, sent three ministers to Aberdeen, who, finding themselves alone, came away, leaving behind them a written protest that they were not to blame for the consequences of such a breach of the laws of God and man.

Though the Presbytery of St. Andrews stood alone in protesting against this illegal act, there can be little doubt that the dissatisfaction was widely spread. At a meeting of the ministers held at Perth in October, hard

Meeting of ministers at Perth.

## CH. IX.

1605.

June 7,  
1605.  
Second  
postpone-  
ment of  
the meet-  
ing of the  
Assembly.

words were spoken both of the Bishops and of the Commissioners of the Assembly, who were accused of using their position to draw all ecclesiastical power into their hands. The King's declaration, that he had no intention of altering the existing system, was looked upon with suspicion. This suspicion was converted into certainty upon the appearance of a letter addressed to the Presbyteries by the King's Commissioner, Sir Alexander Straiton, of Lauriston, and the Commissioners of the Assembly informing them that the King had directed another prorogation of the Assembly, on the ground that it was impossible for him to consider of the matters which would come before them until the close of the sessions of the two Parliaments, which were to be engaged in settling the question of the union.\*

Causes  
which in-  
fluenced  
the King.

In committing this renewed breach of the law, James appears to have been influenced by the rumours which were brought to his ears by those who were interested in creating an ill-feeling between him and the Scottish clergy. He was told that, if he allowed the Assembly to meet, some attack would be made upon the Bishops and the Commissioners.† To the Bishops, indeed, the Assembly could do little positive harm, as they held their seats by virtue of the Act of Parliament passed in 1597, and they would not be affected by a repeal of the Act of the Assembly, by which voters were allowed to appear on behalf of the Church, under certain conditions, to which they had not conformed. Indeed, several new Bishops, and the two Archbishops of St. Andrews and Glasgow, Gladstones and Spottiswoode, had been recently appointed, without the slightest pretence of conforming to the mode of election prescribed by the Assembly. With the Commissioners the case was different. Their tenure of office was at an end as soon as the next Assembly met, and by simply refusing to reappoint them, the Assembly would put an end to the only link which existed for the time between the

\* Forbes's *Records*, 384.

† This must be the meaning of Spottiswoode's statement, 'that the King was informed that ministers intended to call in question all the conclusions taken in former Assemblies for the episcopal government,' iii. 157.

King and the Church. That such a course would be adopted was not in itself unlikely. They were, not unreasonably, regarded with great dislike by the vehement Presbyterians, as men who lent the weight of their authority to the support of the Crown against the clergy. That such a body should be in existence, in some form or another, was looked upon by James as a necessary part of the system upon which he proposed to govern the Church. If he could be sure of having commissioners always by his side, who would give him the support of an ecclesiastical authority in keeping the clergy in due submission to himself, he would probably have been satisfied. But this was exactly what he never could be sure of. Day by day the episcopal system appeared more desirable in his eyes. It was not an ecclesiastical, it was purely a political question. Commissioners owed a divided allegiance, and might be removed from office at any time. Bishops were creatures of his own, and, by the very necessity of their position, would do his bidding, whatever it might be.

CH. IX.  
1605.

Against this attempt of the King to interfere with the Church all that was noblest in Scotland revolted. The Presbyterians felt that they had right on their side. It was impossible that such a scheme as that of James could be confined to restricting them from interfering with merely temporal matters. If their Assemblies were silenced, or if they were only allowed to vote and speak under the eye of the Court, there was an end for ever of that freedom for which they had struggled so manfully. The kingdom of Christ, of which they constituted themselves the champions, may have been possessed in their eyes of attributes and powers which had their origin merely in their own imaginations; but it is impossible to mistake the real nature of the contest in which they were engaged. The question of the limits of the two jurisdictions gradually sinks out of notice. That upon which the opponents were now to meet was nothing less than this—whether human society is to be based upon the will of God, or whether it is to look for its foundations to the arbitrary fancies of one or two human beings. The foremost men among the Scottish clergy may

Presbyterian  
opposition.

CH. IX. frequently have been mistaken in substituting their own  
 1605. notions for the will of God, and they may have left it to others to discover how far it is revealed in the constitution of society itself; but it is undeniable that it is to them above all others that the honour is due of maintaining the great principle which is the soul of their creed.

This time, too, the law of the land was on their side. The Act of 1592 distinctly guaranteed the yearly meetings of the Assembly. When, therefore, it was known that the King had ordered the Assembly to be again postponed, though the majority were unwilling to irritate him by disobeying the command, there were a few who felt that to yield at such a time would be to betray the cause of the Church and of the law, from fear of the consequences of resisting an arbitrary and illegal mandate.

Meeting of  
the minis-  
ters at  
Aberdeen.

On the 2nd of July, therefore, nineteen ministers assembled at Aberdeen. A few more would have joined them, if they had not been led to suppose that the day of meeting had been the 5th instead of the 2nd of July.\* This discrepancy in the letter by which the prorogation in 1604 had been notified to them has been supposed to have been owing to a design on the part of the Government to bring them to Aberdeen in detached bodies.

Straiton  
presents  
them with  
the letter  
of the  
Council.

As soon as this little handful were assembled, Straiton presented them with a letter from the lords of the Council. As, however, the letter was directed 'To the Brethren of the Ministry convened in their Assembly at Aberdeen,' they refused to open it till they had constituted themselves into a regular Assembly by choosing a Moderator. Straiton, after suggesting John Forbes of Alford as a proper person, left the room. As soon as he was gone, Forbes was unanimously elected, and, the Assembly being constituted, the letter of the Council was opened. It was found to contain a warning not to offend the King by meeting without his consent, and an order to leave Aberdeen without appointing any time or place for the next Assembly. To the first point the ministers were

\* Forbes, 386. Calderwood, vi. 322.



ready to agree. They had no wish to push matters to extremities by attempting to transact business in defiance of the King ; but they were by no means willing to surrender the independence of the Assembly, by leaving in the King's hands the appointment of its meetings. They did, however, what they could to avoid anything which looked like disloyalty. They sent for Straiton, and begged him to name any day he pleased, however distant, and assured him that they would willingly submit to his decision. It was only after his refusal to agree to their proposal, that they themselves adjourned the Assembly to the first Tuesday in September. It was then, and not till then, that the King's Commissioner declared that he did not consider them to be a lawful Assembly, as the Moderator of the last Assembly, who ought to have opened the meeting, was not present. He followed this up by threatening the ministers with the treatment of rebels if they did not instantly break up their meeting. Having accomplished the object for which they had come, they left the town without making any resistance. Nine other ministers, who arrived on the 4th and 5th, also went home, after signifying their approval of the conduct of their brethren.\*

CH. IX.  
1605.

The Assembly  
prorogues  
itself.

Either during his last conversation with the ministers, or on his way home, Straiton remembered that the effect of what had just passed under his eyes would be to bring to an end the authority of the Commissioners of the last Assembly, if the nineteen ministers who had just left Aberdeen constituted a real Assembly. Accordingly, fearing lest he should be brought to account for not using more active measures, he determined to invent a story which would save him from disgrace. On his return to Edinburgh, therefore, he boldly declared that on the day before the ministers met, he had published a proclamation at the Market Cross at Aberdeen, forbidding them to take part in the Assembly.† To this falsehood he afterwards added an equally fictitious account of the forcible exclusion of himself from the room in which the Assembly was held.

Straiton  
falsifies  
his account  
of the As-  
sembly.

\* Forbes, 401.

† Forbes, 401.

## CH. IX.

1605.

He is supported by Dunfermline and Balmerino.

Unfortunately the men who occupied the principal positions in the Council were not likely to give themselves much trouble to sift the matter to the bottom. The Chancellor, who now bore the title of Earl of Dunfermline, had formerly, as Alexander Seton, been brought into frequent collisions with the clergy. Elphinstone, who had now become Lord Balmerino and President of the Court of Session as well as Secretary of State, had also old grudges which he was not unwilling to pay off. They were both able and unscrupulous men, who knew that their political existence depended upon their subservience to the royal authority. They therefore, as soon as they received a letter from James urging them to take steps against the ministers, instead of attempting to enlighten his mind as to the deception which had been practised upon him, threw themselves readily into the course of persecution which he pointed out;\* although Dunfermline had not long before assured Forbes that he would be quite content if the Assembly should act in the precise way in which its proceedings had been actually carried on, and when he first saw an account of what had passed, had approved of all that had been done.

Imprisonment of Forbes and the other ministers.

Accordingly, on the 25th of July, the Scottish Council issued a proclamation prohibiting the Assembly from meeting in September. On the same day, Forbes was summoned before the Council, and on his giving it as his opinion that the meeting at Aberdeen was a lawful Assembly, he was committed to custody in Edinburgh Castle, from whence, a few days later, he was removed to Blackness, where he was soon joined by John Welsh, one of those who had not appeared at Aberdeen till after the conclusion of the proceedings, but who was regarded by the Government with suspicion as a man who was warmly attached to the Presbyterian discipline.† Four others were at the same time sent down to Blackness.

The King was determined to carry out his authority with a high hand. He sent down a letter which all the Presbyteries were directed to have read from the pulpit,

\* The King to Balmerino, July 19, 1605. Botfield, *Original Letters relating to Ecclesiastical Affairs* (Bannatyne Club), i. 356\*.

† Forbes, 403.

in which he explicitly affirmed that no law could bind him to observe the privileges by which any body or estate in the kingdom was allowed to meet or to deliberate. It was part of his prerogative to appoint their meetings, of which no statute could deprive him.\* This letter the Presbyteries refused to read, but it was published by authority some months afterwards. He also directed certain captious questions to be put to the imprisoned ministers, which were intended to entangle them into an admission of the unlawfulness of the Aberdeen Assembly.

CH. IX.

1605.

On their refusal to do this, they were summoned with some of the other ministers who shared in their steadfastness to appear on the 24th of October before the Council, in order to hear the Assembly declared to be unlawful, and to receive their own sentence for taking part in it.† On the appointed day they were brought before the Council, and, after in vain beseeching the Lords to refer their case to a General Assembly, gave in a declinature, in which they refused to acknowledge the jurisdiction of the Council in a question concerning the rights of the Church, and referred their cause to the next Assembly. James, when he heard of the course which they had

Their declinature.

\* Calderwood, vi. 426.

† Calderwood, vi. 342. The portion of the Act of 1592 which bears upon the question, runs as follows:—‘It shall be lawful to the Kirk and ministers, every year at the least and oftener, *pro re nata*, as occasion and necessity shall require, to hold and keep General Assemblies, providing that the King’s Majesty, or his Commissioners with them to be appointed by His Highness, be present at ilk General Assembly before the dissolving thereof, nominate and appoint time and place when and where the next General Assembly shall be holden; and in case neither His Majesty nor His said Commissioners be present for the time in that town where the said General Assembly is holden, then, and in that case, it shall be lesum to the said General Assembly by themselves to nominate and appoint time and place where the next General Assembly of the Kirk shall be kept and holden, as they have been in use to do these times by-past.’ (*Acts of Parl. Scotl.*, iif. 541.) It is evident that this Act is not without ambiguity. The case when, as happened in Aberdeen, the Commissioner was in the town, but refused to name a place and time, is not provided for. Again, a question might be raised whether, though the ministers would have been justified in holding their Assembly in 1604, they were within the letter of the law in 1605, as the meeting had not been appointed by a Commissioner present at an Assembly. But the King took up ground which was plainly untenable when he spoke of the prerogation of 1604 as being one which the ministers were bound to attend to, as if it had been in accordance with the Act of 1592. The answer was, of course, that it had not been declared by the King or Commissioner present in an Assembly.—Forbes, *Records*, 452.

## CH. IX.

1605.

The King  
directs  
that they  
shall be  
brought to  
trial.

taken, directed that they should be brought to trial upon a charge of treason, under the Act of 1584, which pronounced it to be treasonable to refuse to submit to the jurisdiction of the Council. In order to insure a conviction, he sent down the Earl of Dunbar to use his authority with all who might be inclined to throw obstacles in the way.

In the proceedings which followed, it is neither the abstruse points of law which were so diligently argued, nor even the fate of the bold and fearless men whose lives and fortunes were at stake, which principally attracts our attention. The real question at issue was, whether the King's Government was worthy to occupy the position which it had taken up. If the Assemblies were not to be allowed to meet and to deliberate independently of the authority of the State, what was to be substituted for them? Was their claim of Divine right to be met by calm deliberation, and by unswerving justice, allowing liberty of action wherever liberty was possible; or by an exhibition of petty intrigues resting upon the support of brute force? In other words, did James appear as the standard-bearer of law and order against ecclesiastical anarchy, or was he clothing, ignorantly or knowingly, his own arbitrary will in the forms of political wisdom? In reality it was James himself who was on his trial, not the prisoners at the bar.

1606.

The trial  
to be at  
Linlith-  
gow.

The proceedings did not commence in a very promising manner. It was necessary to remove the place of trial from Edinburgh to Linlithgow, lest the Chancellor and his associates should be unable to carry out their purpose in the face of a population which sympathized strongly with the ministers.\* On the morning of the 10th of January, the six who were confined at Blackness were hurried before the Council at Linlithgow, and, after all efforts had been made in vain to induce them to withdraw their declinature, were ordered to prepare for trial.

Criminal trials in England were not to be regarded at this period as models of justice, but it is certain that

\* Forbes, *Records*, 452.

the most subservient judge who had ever sat upon the English Bench would have been shocked at the manner in which preparations were made for procuring a verdict against the ministers. Dunbar began by tampering with the judges. He plainly told them that if they did what he called their duty, they might expect to enjoy the favour of the King; but that, on the other hand, if they failed in satisfying him, certain disgrace and punishment would overtake them. He then addressed himself to packing a jury, knowing well that unless extraordinary precautions were taken he would fail in his object. At last he found fifteen men amongst his own friends and relations who, as he hoped, would serve his purpose. To make everything sure, he finally filled the town with his followers, who would be ready to prevent any attempt to rescue the prisoners, and who might also serve the purpose of overawing the Court, in case that, even constituted as it was, it might by some chance show a spirit of independence.\* As if this were not enough, it was arranged that the Lords of the Council themselves, whose jurisdiction was impeached, should sit as assessors on the Court, to assist in judging their own case.

The question of law was argued before the jury were admitted into court. The pleadings turned upon purely legal points, as to the interpretation of words in certain Acts of Parliament, and upon the extent to which the Act of 1584 was repealed by the Act of 1592. In these discussions there is no interest whatever. They barely touch upon the great questions at issue, and there can be no doubt that the decision which was finally given against the prisoners had been settled beforehand.

Decision of the question of law.

When this part of the trial had been brought to a conclusion, the jury were at last admitted. As soon as they appeared they were addressed by Sir Thomas Hamilton, the Lord Advocate. He told them that it had been already settled by the court that the declinature of members was treasonable, and that all that was left to the jury was to find whether the declinature had

The jury admitted.

\* Sir T. Hamilton to the King, Dalrymple's *Memorials*, 1.

CH. IX.

1608.

proceeded from the prisoners or not. He assured them that the document which he produced was in the handwriting of the ministers; there could therefore be no difficulty in bringing in the verdict for which he asked. He concluded by telling the jury that if they acquitted the prisoners they must expect to be called in question for their wilful error, by which their own lives and property would be endangered.

Forbes's  
speech.

In spite of the opposition of the prisoners' counsel, the jury were being sent out of court to consider the verdict, when Forbes asked to be allowed to address them in the name of his brethren. Having obtained permission he went over the whole story of his supposed offence in words which must have gone to the hearts of all who were not utterly deaf to the voice of a true man speaking for his life. After protesting that Straiton's story of the proclamation at the Market Cross of Aberdeen was utterly false from beginning to end, he showed that the direction of the Council's letter by which the ministers assembled at Aberdeen were required to disperse, was enough to prove that that meeting was regarded as a lawful Assembly by the very Council which had afterwards called them to account. The only point in which the ministers had been disobedient was in refusing to dissolve the Assembly without appointing time or place for the next meeting. In doing this he asserted that they had acted in accordance with the laws of the kingdom as well as of the Church. The truth was that they were brought into danger in order to support the pretensions of the Commissioners of the Assembly, who were labouring to introduce the Romish hierarchy in place of the Church and Kingdom of Christ. He reminded the jurors that they had all of them subscribed to the Confession of Faith, and had sworn to maintain the discipline of the Church, and he adjured them to judge that day as they would be judged when they were called to render an account to God of the oath which they had sworn.

Welsh's  
speech.

After some altercation between Forbes and the Lord Advocate, Welsh addressed the jury. He spoke even more strongly than Forbes had done of the sole right of

the Church to judge of ecclesiastical questions. As soon as he had finished, Hamilton told the jury that they ought not to be moved by what they had just heard, and, after admonishing them to perform their duty, he concluded by again threatening them with punishment if they refused to find a verdict against the prisoners. As soon as he had ended his speech, Forbes read a passage out of the solemn league and covenant, in which King and people had once united to protest their devotion to the Protestant faith; and then turning to Dunbar requested him to remind the King of the punishment which had overtaken Saul for his breach of the covenant which had been made with the Gibeonites, and to warn him lest a similar judgment should befall him and his posterity if he broke that covenant to which he had sworn. After this the other prisoners declaring it to be unnecessary to add anything to that which had been already said, the jury were ordered to retire to consider their verdict.

CH. IX.  
1606.

Then was seen the effect which the words of earnest men can have even upon such as those who had been brought together for the express reason that they were unlikely to sympathise with the prisoners. The jury, packed as it had been, began to doubt what the verdict was to be. One of them begged that some one else might be substituted in his place. Another asked for more information on the point at issue. A third begged for delay. When all these requests had been refused, they left the court. As soon as they had met together, it was found that they were inclined to brave all threats and to acquit the prisoners. The foreman of the jury Stewart of Craighall, was one of those who, being himself liable to the penalties of the law, did not dare to oppose the will of the Council. He accordingly, as soon as he found what was the opinion of the majority, went back into the court, together with the Lord Justice Clerk, who had been illegally present in the jury room, and warned the judges what was likely to be the result. The Councilors, in order to save their credit, made one more attempt to persuade the prisoners to withdraw their declinature. Having failed to produce any effect, they

The jury  
consider  
their ver-  
dict.

CH. IX.

1603.

The prisoners pronounced guilty.

Effect of the trial.

not only tried what could be done by again threatening the jury, but they sent some of their number in to assure them that they would do no harm to the prisoners by convicting them, as the King had no intention of pushing matters to extremes, and only wished to have the credit of a verdict on his side, in order to proceed to bring about a pacification with greater likelihood of success. Influenced by these threats and promises, nine out of the fifteen gave way, and the verdict of guilty was pronounced by the majority which, according to the law of Scotland, was sufficient for the purpose. The sentence was deferred till the King's pleasure should be known.\*

Such a victory was equivalent to a defeat. If the power of the King was established too firmly by means of his coalition with the nobility to make it likely that any actual danger was to be apprehended, he had at least notified to all who cared for honesty and truthfulness that it was only by falsehood and trickery that he had succeeded in establishing his claims. From henceforward it would be unnecessary to go into any elaborate argument in favour of the independence of the Church Courts. It would be sufficient to point to the trial at Linlithgow, and to ask whether that was the kind of justice which was so much better than that which was dispensed in the Ecclesiastical Courts. So strong was the general feeling on the subject, that when James wrote to the Council pressing them to bring to a trial the remaining ministers who had also signed the declinature, he received a reply informing him that it was very improbable that such a course would be attended with any good result, and recommending him to drop the prosecution in order to avoid an acquittal.†

In the whole course of James's reign there is not one of his actions which brings out so distinctly the very worst side of his character. There can be no doubt that he really believed that he was justified in what he was doing, and that he blinded himself to the

\* Forbes's *Records*, 455-496.

† Botfield, *Original Letters*, i. 360\*; and note to p. 363\*.



radical injustice of his proceedings, and to the scandalous means by which his objects were effected. He began by fancying that the ministers had acted illegally, and then read every law or principle to which they appealed through the coloured spectacles of his own feelings and interests. To any knowledge of the true solution of the really difficult questions which were involved in the dispute, he never had the slightest pretensions, excepting in his own eyes and in those of his courtiers.

CH. IX.

1606.

The six ministers remained for some months in prison. At last, in October, they were condemned to perpetual banishment. As they went down to the boat, at Leith, which was to carry them away in the darkness of the night, the people, who crowded down to the beach to see them go, heard them singing the twenty-third Psalm. They had passed through the valley of the shadow of death, and had feared no evil. In prison and in banishment He who had been their shepherd suffered them not to want. They, too, deserve the name of Pilgrim Fathers. Earthly hope they had none; they went not forth to found an empire beyond the seas, they went forth to spend the last days of their weary pilgrimage in foreign lands. But their work was not there: it was in the hearts of their Scottish countrymen, to whom they had at the peril of their lives borne testimony to the truth. They had done their part to build up the Church and nation, which neither James nor his Council would be able to enslave for ever.

Banish-  
ment of  
the six  
ministers.

The eight others, who also refused to retract their declinature, were exiled to various places on the coast and islands of Scotland.\*

Imprison-  
ment of  
the other  
eight.

The Linlithgow trial had brought clearly before the eyes of the nation the real worth of the judicial institutions of the country. It remained to be seen whether its legislative body was any more fit to call the General Assembly to account. Whatever may have been the intentions of the King during the first years of his reign in England, there can be no doubt that he was now bent upon bringing the clergy under his feet by

\* Acts of the Privy Council, Botfield, *Original Letters*, i. 368\*.

CH. IX.  
1606.  
The Par-  
liament at  
Perth.

restoring to the Bishops their jurisdiction. He accordingly summoned a Parliament to meet at Perth in July, in order to pass an Act for the restitution to the Bishops of the property of their sees which had been formerly annexed to the Crown. It was notorious that many of the nobility looked askance upon the new Bishops. But their opposition was not of a nature to hold out against those arguments which the Government was able to use. With the conscientious hatred of Episcopacy which animated the Presbyterians, they had nothing in common; all that they felt was a mere dislike of the rise of an order which might vie in wealth and influence with themselves. With such men as these it was easy to strike a bargain. Let them assent to the repeal of the Act of Annexation, by which so much of the Church land had been declared to be Crown property, and if the King were allowed to use some of it to endow his new Bishops, he would carve out of it no less than seventeen temporal lordships for the nobility.\* Such arguments as these were unanswerable. The Parliament speedily passed the Acts which gave permission for the change, and added another, declaring that the King's authority was supreme 'over all estates, persons, and causes whatsoever.'†

Position  
of the  
Bishops.

The position occupied by James's Bishops was unique in the history of Episcopacy. There have been instances in which laymen have borne the title of Bishop, and there have been instances in which Bishops have passed gradually from the exercise of purely spiritual functions to the enjoyment of temporal jurisdiction; but nowhere, excepting in Scotland, has a class of ministers ever existed who were clothed in all the outward pomp and importance of temporal lordships, whilst they were altogether without any ecclesiastical authority whatever. Such a state of things was too ridiculous to continue long. Any attempt to rule the Church by means of the subservient courts of law, and the half-careless, half-corrupt Parliaments, was

\* Melville's Diary, 840. Council to James, July 4, 1606, *Melrose Papers*, (Abbotsford Club), 15.

† *Acts of Parl. Scotl.* iv. 280.

certain, in the long run, to prove a failure. Everything tended to make James more determined to give real authority to his Bishops, or, in other words, to himself.

CH. IX.  
1606.

But if this was to be accomplished, James shrunk from carrying out his purpose by a simple act of authority. To do him justice, when a scheme of this kind came into his head, he always contrived to persuade himself that it was impossible for anyone to oppose it excepting from factious or interested motives. Just as to the end of his life he continued to believe that the English House of Commons misrepresented the loyal feelings of the nation, he now believed that the dislike of Bishops was confined to a few turbulent resisters of all authority. And such was his opinion of the justice of his cause and of the force of his own arguments, that he flattered himself with the notion that even those who had hitherto resisted his wishes must give way if he could once be brought face to face with them.

James determines to give them ecclesiastical authority.

In a proclamation issued in the preceding autumn,\* the King had declared that he intended to make no alteration in the government of the Church, excepting with the advice of those whom he called the wisest and best of the clergy; and he accordingly directed that a General Assembly should be held at Dundee in July. In February he sent round five questions to all the Synods, intended to induce them to give their assent to the acknowledgment of the King's authority in calling the Assemblies, and to promise to support the Commissioners, leaving untouched the position of the Bishops.† Failing to obtain any satisfactory answer, he wrote to eight of the principal ministers, in the number of whom both Andrew Melville and his nephew James were included, directing them to present themselves in London on the 15th of September, in order to discuss the question at issue between the ministers and the Crown. In spite of their disinclination to enter upon a discussion which they knew to be useless, they consented to comply with the request. Their first conference with the King was held on the 22nd of September, in the

Sept. 26.  
1605.

1606.  
Questions put to the Synods.

\* Calderwood, vi. 338.

† Calderwood, vi. 391—393. The second of the two copies given is probably the authentic one. Compare the notices of it at pp. 477, 571.

## CH. IX.

1603.

Confer-  
ence at  
Hampton  
Court.Melville's  
verses, and  
banish-  
ment.

presence of several members of the Scottish Council, and of some of the Bishops and other ministers who were favourable to the claims of the King. They found that they were required, as a preliminary step, to give an opinion on the lawfulness of the Assembly at Aberdeen. It was to no purpose that arguments were addressed to them to prove the correctness of the King's view of the case, and that they were called upon to listen, day after day, to polemical sermons from the most distinguished preachers of the Church of England. They refused to part with their conviction on this point, or to allow that there was any possible way of pacifying the Church of Scotland, excepting by the convocation of a free General Assembly. Upon discovering that his logic had been expended upon them in vain, James resorted to the disgraceful expedient of ordering the men who had come up to England on the faith of his invitation, to be committed in custody. It was not long before a circumstance occurred which gave him an excuse for severer measures. An epigram was put into his hands which had been written by Andrew Melville, on what seemed to him the Popish ceremonies practised in the King's Chapel at one of the services which he had been compelled to attend.\* The verses had not been put in circulation, nor was it intended that they should be; but James, glad of an opportunity of revenging himself upon the man whom he detested, ordered him to be brought before the Privy Council. When there, Melville, amidst the taunting words of the members of this unsympathising tribunal, with a not unnatural ebullition of impatience, turned fiercely upon Bancroft, who had charged him with something very like treason and reminding him of all his real and supposed faults, ended his invective by taking hold of one of his lawn sleeves, and holding it up and shaking it, told him that these were Romish rags, and part of the mark of the beast. Such a scene had never before occurred in the

\* 'Cur stant clausi Anglis libri duo regiâ in arâ,  
Lumina cæca duo, pollubra sicca duo ?  
Num sensum cultumque Dei tenet Anglia clausum  
Lumine cæca suo, sorde sepulta suâ ?  
Romano an ritu dum regaleam instruit aram,  
Purpuream pingit religioea lupam ?'

decorous Council Chamber at Whitehall, and the Lords were not likely to leave it unnoticed. He was committed by them to the custody of the Dean of St. Paul's, from whence he was, after another examination, transferred to the Tower. There he remained a prisoner for four years, till he was allowed to leave England at the request of the Duke of Bouillon, in whose University at Sedan he passed the remaining years of his life as Professor of Divinity. His nephew, whose sole crime was his refusal to acknowledge the King's ecclesiastical supremacy, was sent into confinement at Newcastle. The six other ministers were relegated to different parts of Scotland.

CH. IX.  
1808.

Treatment  
of the  
other  
ministers.

The cycle of injustice was now complete. In the course of one short year the judicature, the Parliament, and the King had proved to demonstration that they were not in a position to demand of the Church the surrender of her independence. In theory, the view taken by James in protesting against the claim of the clergy to exclusive privileges approached more nearly to those which are very generally accepted in our own day, than do those which were put forward by Melville and Forbes. But that which is yielded to the solemn voice of the law may well be refused to the wilfulness of arbitrary power.

As yet, James did not venture upon proposing to introduce a copy of the English Episcopacy into Scotland; but he determined to make an effort to bring the Bishops whom he had nominated into some connection with the working machinery of the Church. There can be no doubt that, in detaining the eight ministers in England, he had been as much influenced by the hope of depriving the Scotch clergy of their support, as by the annoyance which he felt at their pertinacious resistance. But even at a time when no less than twenty-two of the leading ministers had been driven away from the scenes of their labours, he did not dare to summon a freely chosen Assembly, with the intention of asking it to surrender into the hands of the Bishops the least fraction of the powers which had hitherto been possessed by the Presbyteries and Assemblies of the Church. He had, in consequence, again prorogued the Assembly, which was to have met in the course of the summer.

James's  
plan of  
Constant  
Moderators.

## CH. IX.

1606.

The Lin-  
lithgow  
Conven-  
tion.

Still, however, some means must be taken to cloak the usurpation which he meditated. The plan upon which he decided was worthy of its author. He issued summonses to the various Presbyteries, calling upon them to send to Linlithgow certain ministers who were nominated by himself, in order that they might confer with some of the nobility and of the officers of State, on the best means to repress the progress of Popery, and that they might determine upon the means which were to be taken for the preservation of the peace of the Church. On the 13th of December, this assembly of nominees met, according to the King's directions; and though the members at first showed some signs of independence, they were in the end, by the skilful management of the Earl of Dunbar, brought to agree to all that was proposed to them. The chief concession obtained was, that in order that there might be an official always ready to counteract the designs of the Catholics, a 'Constant Moderator,' who might be entrusted with this permanent duty, should be substituted in all the Presbyteries for the Moderators who had hitherto been elected at each meeting. In the same way the Synods, or Provincial Assemblies, were also to be provided with permanent Moderators. Whenever a vacancy occurred, the Moderators of the Presbyteries were to be chosen by the Synod to which the Presbytery belonged. The Synod was itself to be presided over by any Bishop who might be acting as Moderator of any of the Presbyteries within its bounds, and it was only to be allowed to elect its own Moderator in cases where no Bishop was thus to be obtained. The Moderators, however, were liable to censure, and even to deprivation, in the Church courts. This arrangement, such as it was, was not to come into action at once. The first list of Moderators of all the Presbyteries in Scotland was drawn up by the Linlithgow Convention, and in it were to be found the names of all the Bishops for the Presbyteries in which they resided.\*

This Act left, indeed, the whole machinery of Presby-

\* Calderwood, vi. 601.

terianism in full action. But it accustomed the clergy to see the nominees of the Crown presiding in their courts, and might easily lead the way to future encroachments. It was hardly likely, however, that the decisions of this irregular Convention would be universally accepted as equal in authority to those of a free Assembly. It was soon found that resistance was to be expected, and the determination to resist was strengthened by a report which was generally circulated, to the effect that the Act of the Assembly had been surreptitiously altered by the King himself, a report which gained additional weight from the circumstance that some of the ministers had in vain attempted to gain a sight of the original document.

CH. IX.

1608.

Resistance  
to the  
Constant  
Moderators.

James, however, determined to carry his scheme into effect in spite of all opposition. On the 17th of January 1607, an order was issued to all the Presbyteries, admonishing them to accept the Moderators on pain of being declared guilty of rebellion. The same threat was held over the heads of those Moderators who might be unwilling to accept the post to which they had been appointed. Some of them gave way before superior force, but others refused to obey the command. In the Synods the resistance was still stronger, as it was believed that the order to admit the Bishops as Moderators had been the one which had been improperly added to the Acts of the Convention. All over Scotland one Synod only, that of Angus, submitted at once to the change. It was only after a long resistance that many of them gave way to a force which they were unable to resist.

1607.

At last, in July 1608, James ventured to summon another Assembly to Linlithgow. We may be sure that the influence of the new Moderators was everywhere employed to procure the election of such persons as were acceptable to the Court.\* The hopelessness of

1608.

Assembly  
at Lin-  
lithgow.

\* 'We have already visited three Presbyteries, and have found the number of your honest servants to exceed the seditious. We have caused them choose Commissioners to the ensuing General Assembly, and of twelve, I will be answerable for nine. This has been the most seditious Province (i.e. Fife) in all our kingdom.'—Gladstones to the King, April 17, 1608. Botfield, *Original Letters*, i. 131.

## CH. IX.

1608.

resistance, and the knowledge that the Bishops were possessed of the power of raising the ministers' stipends, had done wonders with that numerous class of men who are inclined by natural temperament to go with the stream. Of those who were still desirous of holding out, it is possible that some were influenced by their desire to share in the measures which were to be taken against Huntly and the two northern earls who had once more declared their attachment to the faith which they in reality believed. Nor was the appearance of Dunbar, attended by some forty noblemen, who proceeded to vote as well as to listen, likely to add to the independence of the ministers who were present. Instead, therefore, of remonstrating against what had passed, the Assembly contented itself with passing sentence of excommunication against Huntly, and with appointing a commission to discuss the controversy which agitated the Church.\* Accordingly, five champions of each party met at Falkland in the following May, but they were unable to agree even upon the preliminaries of the discussion, and the conference was adjourned, never to meet again.† The Bishops made another step in advance at the Parliament which met in June, where an Act was passed entrusting them with jurisdiction over testamentary and matrimonial causes. A few months later, Spottiswoode received from the King a grant of a place amongst the Lords of Session.

1609.

High Commission.

The time was now come when James thought that it would be possible for him to complete the work which he had so much at heart. But before he summoned another Assembly, he took one more step to terrorise the recalcitrant clergy. Without a shadow of authority either from Parliament or from the Assembly, he directed that each of the two Archbishops should hold courts of High Commission for their respective provinces. It was in this way that he made up his mind to cut the Gordian knot of the civil and ecclesiastical jurisdictions. From henceforth fine and imprisonment were to be the lot not

\* Calderwood, vi. 751.

† Calderwood, vii. 26.



only of those who had been guilty of acts of immorality, or who had committed themselves to heretical doctrines, but also of those ministers or teachers who questioned in any point the order established in the Church. The same fate awaited them if they uttered a word in favour of the men who were lying under the King's displeasure.

CH. IX.  
1610.

With such an instrument as this in his hands, there could be little difficulty in obtaining the consent of an Assembly elected under the influence of the Bishops to anything that might be laid before it. Such an Assembly met at Glasgow in June 1610. The names of those who were to compose it had previously been sent down to the different Presbyteries,\* and there were probably few, if any, of them who dared to make an independent choice.

Assembly  
summoned  
to meet at  
Glasgow.

This Assembly, thus nominated, gave its consent to the introduction of Episcopacy. It began by acknowledging that the Assembly at Aberdeen, in 1605, was unlawful, and that the convocation of Assemblies belonged to the King. The Bishops, it was declared, were to be Moderators in every diocesan Synod, and all sentences of excommunication or absolution were to be submitted to them for their approval. They were also to judge of the fitness of persons who obtained presentations, and to ordain them to the ministry. The Bishop was, moreover, empowered to try any of the clergy who might be accused of any delinquency, and, with the assistance of the neighbouring ministers, to deprive him of his office.†

It assents  
to the in-  
troduction  
of Epis-  
copacy.

Thus, after a struggle of many years, James had succeeded in establishing, under the shadow of Episcopacy, his own authority over the Presbyterian Assemblies. The means to which he owed his victory have been enough to bring disgrace upon it in the eyes of succeeding generations. Not only were the clergy deprived, by unjustifiable constructions of the law, of their natural leaders, but they themselves were convinced, by sad experience, of the inutility of making any further resistance to the overwhelming power of the King, which might, by means of the instrumentality of the

Causes of  
the success  
of the  
King's  
project.

\* Calderwood, vii. 92.

† Calderwood, vii. 90.

## CH. IX.

1610,

High Commission, be brought to bear upon them at any moment. As if all this had not been enough, James allowed himself to disgrace his cause by employing Dunbar in tempting the Assembly, by means of what, under whatever specious names it might be called, was nothing more or less than direct bribery.\*

But after every admission has been made on this score, it cannot be denied that, ever since the tumult in Edinburgh in 1596, there had been a considerable want of animation on the part of those classes on whom the Presbyterians depended for support. What opposition there was, came almost entirely from the ministers themselves. Not only were the great nobles, with one or two inconsiderable exceptions, banded together against them as one man, but the lesser gentry, and even the boroughs, were lukewarm in their cause.

The explanation of this change, which had passed over those who had so often lent their arms to the support of the ministers against the Crown, is probably to be found rather in the circumstances of the internal history of the country, than in any supposed extent of power which had been gained by James at his accession to the throne of England. In the first place, the cause of Presbyterianism was no longer connected with resistance to foreign interference, with regard to which Scotchmen, like all members of a small community which is threatened by the encroachments of their more powerful neighbours, have always been so sensitive. In the early part of James's reign the ministers could appeal to the nation against the intrigues of France. At a later period, it was the dread of a Spanish invasion which added strength to their invectives against the northern earls. But with Huntly's defeat in 1595, all this was

Cessation  
of the fear  
of foreign  
interference.

\* Spottiswoode (iii. 207) says that this money was merely paid in satisfaction of a debt owing to the Constant Moderators for their services. But the money thus paid only amounted to £3,010 Scots. Whereas, on the 8th of May, the following order was directed to Dunbar: 'It is our pleasure, will, and express command, that against this ensuing Assembly, to be kept at Our City of Glasgow, you shall have in readiness the sum of ten thousand marks, Scottish money, to be divided and dealt among such persons as you shall hold fitting by the advice of the Archbishop of St. Andrews and Glasgow,' &c.—Botfield, *Original Letters*, i. 425, 429.

at an end. If, for a short time, it was still supposed that Huntly and Errol were likely to renew their invitations to the Spanish Court, all suspicions of such behaviour on their part quickly died away, and the question between the King and the clergy could henceforth be treated merely as a matter of internal policy, with which national prejudices had nothing whatever to do.

Nor were the King's innovations of such a nature as to provoke opposition from all who were really anxious to support the Protestant doctrines. The same sermons were likely to be preached by the very same men, whether the General Assembly or the King gained the victory. There was nothing which addressed the eye in the changes which were being brought about. Men who would have been horror-struck at such alterations as those which were afterwards carried out under the superintendence of Laud in the Church of England, looked on with indifference as long as they saw the old familiar services conducted in the unchanged Church to which they had been accustomed from their boyhood. To all superficial observers, and in no age or country is their number a very limited one, the question at issue was merely one of jurisdiction, by which the integrity of the Gospel was not affected in any way whatever.

CH. IX.  
1610.

The King's innovations not such as to provoke general opposition.

The real evil lay rather in what might be done than in what had actually taken place. The suppression of all free speech in the only place where it was known in Scotland, was sure to lie like a moral blight upon the nation, unless it were speedily shaken off; and the silence which would ensue would be sure to tempt the King and his tools to try the temper of the people by the introduction of further changes, of the acceptability of which they had no means of judging, because they had suppressed the national voice.

The evils which were in reality attached to them.

It is impossible to make a greater mistake than to suppose that the question at issue was one between Presbyterianism and Episcopacy as forms of Church government. That question, if it is to be discussed, must be discussed on other grounds than those which are furnished by the great ecclesiastical controversy of the seventeenth century in Scotland. That controversy

CH. IX.  
1610.

would have been carried on in precisely the same manner; and the cause of the clergy would have been defensible on precisely similar grounds, if the Church of Scotland had been an Episcopalian Church, provided only that its Bishops had been, from any causes, swayed by the same influences as those which prevailed amongst the other ministers, and if they had owed their origin to the same source. The only question really at issue was, whether the clergy ought to be bound to submit to men who were nothing more than nominees of the Crown; and to that question there could be but one answer.

Comparison between the Assembly and the English House of Commons.

It is impossible to read the history of the proceedings which took place at Glasgow, without contrasting them with the debates which were passing at the same time in the English House of Commons. To all appearance the superiority lay with the English body. Whilst the Assembly crouched ignobly at the feet of its master, the House of Commons steadily refused to give up one jot of its rights. And yet if we look on a few years, the relative position of the two bodies will be seen to have undergone a considerable change. It was a Scottish Assembly which first broke the spell of the Stuart domination, and which led the way to the revolution by which the throne was, at least for a time, overturned.

Strength of the opposition to arbitrary power in Scotland.

The weakness and the strength of the Scottish Assembly arose alike from its ecclesiastical character. That which in ordinary times served to diminish its strength by depriving it of the support of those classes who, as far as material strength went, were all powerful in Scotland, gave it at the time of a national crisis a power which no body of laymen could possess. When the House of Commons had been dissolved, the members could but retire to their homes, and talk in bated breath of the tyranny which they had resisted in vain. But the clergy of Scotland found in their preaching that which enabled them to serve the cause which they had at heart. Even those who had been induced or terrified into giving their votes for Episcopacy, must, unless they were prepared to forsake all the theology which they had ever learned, work against the system which they had accepted. That every man was a soldier of Jesus Christ,

and was responsible to Him alone for doing the will of God, was the keystone of the Presbyterian doctrine. As it sounded from pulpit to pulpit, every word must have been a testimony against a system of Church government which was founded on the arbitrary will of an earthly sovereign.

CH. IX.

1810.

After all, the similarity between the resistance which James met in the two kingdoms was greater than the contrast. Both in England and Scotland there was the same desire that the action of the Government might be restricted by fixed and definite laws, and that those laws should be framed in accordance with something higher than the dictates of the human will. In both countries there was the same conviction that morality is founded on religion, the same sturdy independence, the same constancy in resisting the seductions of Royal favour. Whatever may have been the differences between them, there was the promise of future agreement. It was not James and Spottiswoode who were laying the foundations of the change which was to make the two nations one. It was the Melvilles in Scotland, and the Whitelockes and Hakewills in England, who, fighting side by side in the battle against the common enemy, were in reality engaged in laying the foundations of that Union which had slipped from the hands of James.

Similarity  
between  
the two  
countries.

The King, unable as he was to divest his Bishops of the character which in reality belonged to them, did his best to conceal it from the eyes of those who might be inclined to look too closely into his work. He directed that the Archbishop of Glasgow and two of the other Bishops should come up to London, in order to receive consecration in England, which, as soon as they were once more in their own country, they in turn conferred on the remainder of their brethren. It was in vain, however, to attempt to place them on an equality with the English Bishops. However much the English Episcopacy was dependent upon the Crown, it had its support in a great body of the clergy, who submitted contentedly to the jurisdiction of the Bishops. Even if the House of Commons had had its way, their office, though it might have been restricted, would certainly

Consecra-  
tion of the  
Bishops.

## CH. IX.

1610.

not have been abolished. In Scotland, those who claimed to hold a similar position to that which had been occupied by Whitgift and Bancroft, were nothing more than puppets in the hands of the King, looked on with detestation by one part of the population, and with indifference by the rest.

1612.

Ratification of the acts of the Assembly by Parliament.

In 1612, James obtained without difficulty the consent of Parliament to the Acts of the Assembly of Glasgow. They were ratified, not as they stood, but with such alterations as would serve to render the power of the Bishops more unlimited than it had been before.

1608.

Ulster in the hands of the Crown.

During the years in which James was engaged in forcing upon his northern kingdom a form of ecclesiastical government which was detested by all those classes of his subjects whose loyalty was worth preserving, events were passing on the other side of the Irish Channel, by which the way was prepared for evils surpassing in magnitude even those from which, for the greater part of a century, Scotland was doomed to suffer. The flight of Tyrone and Tyrconnel, followed, as it had been, by the unsuccessful rebellion of O'Dogharty, had thrown the greater part of Ulster into the hands of the English Government. If there had been any true statesmanship in James, or in his Council, they would have been able to have taken advantage of the clear stage which was now afforded to them for the exercise of their powers. The enterprise of reclaiming to civilisation the wild and desolate regions of the North of Ireland, was one which was preeminently attractive to the fancy of James. To schemes for the improvement of the material condition of his people he was always ready to lend his ear. Unfortunately, the work which was now before him demanded a larger amount of practical wisdom than that of which he was possessed, and it was likely to be encumbered by difficulties of a very different nature from those which met him in his attempts to carry a supply of fresh water to the City of London, or to drain the fens whose sluggish streams flow into the Wash.

Chichester's proposals.

On the 14th of October, 1608, Chichester put into the hands of the Chief Justice and the Attorney-General

of Ireland, Sir James Ley and Sir John Davies, a paper containing notes\* of the condition of the six Ulster counties of Tyrone, Donegal, Coleraine, Armagh, Fermanagh, and Cavan. This paper was to assist them in bringing the ideas of the Irish Government before the English Privy Council at the consultations in London, in which they had been summoned to take a part. In these notes, the Deputy entered at length into the character and circumstances of the principal natives, and concluded by recommending, as he had already done by letter, that they should be satisfied with grants of land. When that had been done, and the retired officials who were to head the settlements, which were virtually to act as garrisons for the country, had also received their shares, whatever remained undisposed of might be thrown open to English and Scottish colonists.

CH. IX.

1608.

On their arrival, Ley and Davies were directed to join with Sir Oliver St. John, Sir Henry Docwra, Sir Anthony St. Leger, and Sir James Fullerton, in drawing up a plan for the proposed colonisation, or, as it was called, the plantation of Ulster. On the 20th of December, these commissioners produced a scheme for the settlement of the county of Tyrone,† and, at no long interval, they extended its principles to embrace the whole of the six counties.‡ In many respects their suggestions were not unlike those which had been made by Chichester. They proposed, as he had done, that the new inhabitants of Ulster should be composed of the retired civil and military servants of the Crown, and of English and Scottish colonists. But whilst Chichester would have treated with the Irish as being the actual possessors of the soil, and would only have admitted the colonists after the bargain had been completed, the Commissioners were ready to look upon the map of the North of Ireland as if it had been a sheet of white paper, and to settle natives and colonists in any way which might appear at the time to be most convenient. They were all men who knew Ireland well; but the question was one of that kind which demands

Commission in London.

Differences between their plan and that of Chichester.

\* Certain notes of remembrances, Oct. 14, 1608, *S. P. Irel.*

† Report of the Commission, Dec. 20, 1608, *S. P. Irel.*

‡ Second report, Jan. 1609, *S. P. Irel.*

## CH. IX.

1608.

something more than personal knowledge of a country. Of the part which each of them took in the production of the scheme there is no evidence whatever, but the error which was committed was so precisely of a kind which was likely to proceed from Davies, that it is difficult to avoid the conclusion that it is principally to him that the mischief is to be traced.

Mistake of  
the Com-  
missioners.

No doubt the plan of the Commissioners was attended by considerable advantages. By bringing the Irish to inhabit separate districts assigned to them by the Government, they would be withdrawn from those defensible positions which might prove formidable in case of another outbreak. Of still greater importance was it to leave as large a space of land unoccupied, for the sole use of the English colonists, whose safety would be endangered if their possessions were intermingled with those of the Irish, who were little disposed to look with favour upon the intruders on their native soil. But all these arguments were as nothing in the face of the manifest injustice of tearing away a whole population from its homes. The one hope for Ireland was that the Irish themselves should learn that it was possible to regard the Government with loyalty. Whatever mistakes had been committed during the first five years of James's reign, the policy adopted by Chichester had been, at all events, such as to foster the notion that his aim was the protection of the native population against the exorbitant power of their own lords. Whatever good-will may have been won in this way was lost for ever if the scheme of the Commissioners should be adopted. It was not as if the land question had concerned the prominent chiefs alone; in spite of all the practical oppression which had been exercised, no idea was more strongly rooted in the Irish mind than that the land was the property, not of the chief, but of the sept; and that the poor were equally interested with the rich in defending the tenure of the soil. With a little management and fair dealing, such a feeling would probably have passed away before the softening influence of increased material prosperity. But a forcible removal of a whole population could only be regarded as a violation of its dearest rights. The poorest herdsman who



wandered after his cattle over the bogs and mountains would treasure up in his heart the remembrance of the great confiscation which had robbed him of the lands of his ancestors, and had placed them at the feet of the stranger.

It is not too much to say, that upon this apparently simple question the whole of the future fate of Ireland depended. For when once that decision was taken, there would be no possibility of drawing back. If the plan of the Deputy were carried out, Ireland would be left, in the main, to its own inhabitants, and the English Government would have limited its interference to that salutary control and education which a more advanced race is capable of exercising over another in a more backward condition. If, on the other hand, the scheme of the Commissioners were adopted, the country was inevitably doomed to a repetition of that evil course from which she had only escaped after four centuries of bitter experience. Once more a confiscation would hand over Ireland to an alien race; once more there would be a chasm which nothing could bridge over between the old and the new possessors of the soil. The religious differences, which, under other circumstances, as the Government grew wiser with the course of time, would cease to trouble it, would become the watchwords of the opposing races, which would learn to hate one another with a hatred greater than even that to which theological rancour can give birth. In the midst of the strife the Government itself would deteriorate. The men who from time to time exercised its powers would be more than human if they were able to mete out indifferent justice, when one party was composed of Protestant Englishmen, and the other of men of an alien race, whose religion they detested, and whose submission was to be secured by force alone, excepting at the price of sacrifices which they were unwilling, and probably unable, to make.

Nothing of all this was foreseen by the well-meaning men who had been employed to draw up the regulations for the future colony. Nor was either James or Salisbury likely to come to their help. There was, indeed, one man of transcendent genius who was ready to give his advice

CH. IX.

1608.

Its extreme importance.

Bacon's views on the state of Ireland.

CH. IX. upon the subject. Bacon had long cast his eyes with  
 1608. sorrow and impatience upon the distracted condition of Ireland. The work of reducing it to civilisation was one which was still more likely to enlist his sympathies than even the Union with Scotland or the abolition of the feudal tenures in England. Above all things he hated anarchy, and the proposed enterprise was welcome to him as the heaviest blow which had yet been dealt to the chronic anarchy of Ireland. By the side of such a work as this, he himself has told us, he looked upon the Virginian colony as upon the romantic achievements of Amadis de Gaul when compared with the deeds related in Cæsar's Commentaries.

His treatise on the plantation of Ulster.

A few days after the first report of the Commissioners was drawn up, Bacon drew up,\* on the subject which had been occupying his mind, a short treatise, which he presented to the King as a New Year's gift.† As is the case with everything else which proceeded from his pen, the few pages of which it consisted teem with lessons of practical wisdom. On every point upon which he touched he had something to say which deserved the attention even of those who were immediately familiar with the country of which he was writing. But that which, at this distance of time, strikes the reader far more than the insight into the facts of the case which he displayed, is the complete absence of the slightest allusion to the feelings and wishes of the native population, or to the not improbable consequences of the dislike with which they would be certain to regard the intruders. Where a modern writer would see a wild independence which, if once it were trained to obedience, would form the surest foundation for liberty, Bacon saw nothing more than the anarchy which actually prevailed; and with his exaggerated faith in the power of Government to educe order out of confusion by regulative measures, he left James and his advisers without a word of warning.

Chichester's views on the question.

If it was unfortunate that Bacon should have failed to point out the way to better things, it was no less

\* *Works*, ed. Montagu, v. 169. The date of its composition is fixed as being after Dec. 20, 1608, by the mention of the proposal of the Commissioners for settling Tyrone. Montagu's date of 1606 is of course wrong.

† Bacon to the King (*Works*, ed. Montagu, xi. 73).

unfortunate that Chichester, who alone had the wisdom to recommend the adoption of a juster system, should have been influenced merely by motives of practical expediency. It was not to the future embarrassments of his successors that he was looking when he drew up his scheme: it was only the present difficulty of removing the septs which had deterred him from adopting the view which had found favour in London.\* If this difficulty could be got over, and if a few alterations were made by the Commissioners, so as to enable him to reduce their plan to working order, he had no further objections to offer. Just as, a year or two before, he had relaxed his persecution of the Catholics in the face of practical difficulties, without being convinced that he had been theoretically in the wrong, so now, if the practical difficulties of which he was afraid could be removed from his path, he was willing to go on with the undertaking without having the slightest idea that he had been theoretically in the right in opposing it.

In the spring of 1609, the scheme which had been drawn up by the Commissioners was published, in order to attract persons who were likely to become undertakers for portions of the escheated lands.† These portions were to be of three different sizes — of one thousand, fifteen hundred, and two thousand acres respectively.‡ Each proprietor was to build on his estate either a castle or a walled enclosure, with or without a stone house,

CH. IX.  
1608.

1609.  
Publica-  
tion of the  
Commis-  
sioners'  
scheme.

\* 'Now you must note that many of the natives in each county do claim freehold in the lands they possess, and albeit their demands are not justifiable by law, yet is it hard and almost impossible to displant them; wherefore I wish that a consideration may be had of the best and chief of them, albeit they were all in Tyrone's last rebellion, and have now hearts and minds alike.'—Certain notes, Oct. 14, 1608. See also Chichester to Salisbury, Feb. 26, 1609, *S. P. Irel.*

† Chichester to the Privy Council, March 10, 1609, *S. P. Irel.*

‡ The following is the proposed division according to the second report of the Commission. The calculation is given in acres:

	English and Scotch.	Servitors.	Irish.
Tyrone . . .	45,000 . . .	14,000 . . .	10,000
Coleraine . . .	15,000 . . .	1,500 . . .	6,500
Donegal . . .	47,000 . . .	10,000 . . .	18,500
Fermanagh . . .	... . .	4,500 . . .	8,500
Cavan . . .	8,000 . . .	8,000 . . .	16,500
Armagh . . .	35,000 . . .	7,500 . . .	10,000
	150,000	45,500	70,000

## CH. IX.

1609.

according to the amount of land he held. The English and Scottish undertakers, to whom the greater part of the land was assigned, were to be prohibited from alienating their lots to Irishmen, or from permitting any native to hold land under them. On the land assigned to the officers, a certain amount of Irish were permitted to remain, but for the most part they were to be banished either to the portions assigned to the landowners of their own race, or to desolate regions in other parts of Ireland.

The colonisation deferred.

It had been originally intended that the colonists should present themselves in Ireland at Midsummer 1609, but it was found necessary to defer the commencement of the undertaking till the following year.\* Some of the provisions of the scheme had been found to be distasteful to those who were likely to give in their names, and it was proposed to alter the arrangements in these respects. Time was also required for surveying the country, for tracing out the lands for the officers' settlements, and for removing the native population.

Survey of the lands.

In the course of the summer, Chichester, accompanied by a large number of the members of the Irish Privy Council, went down under a Commission to carry out the intended survey.† The surveyors were accompanied at every step of the way by a guard, having a lively recollection that the inhabitants of Tyrconnel had, a few years previously, cut off the head of a certain Berkeley, who had been sent down to survey the district. On this occasion, however, the Deputy's force was so overpowering that no resistance was attempted.‡

1610.  
Chichester's views on the settlement of the natives.

During the ensuing winter, Chichester had time to think over the results of his experience. In a paper which he drew up for the information of the Home Government, he again urged the necessity of making sufficient provision for the Irish. If he had relinquished the plan of satisfying the natives before the admission of the colonists, he was still anxious that they should

\* Reasons proving that the deferring of the plantation is most convenient, May 1609, *S. P. Irel.*

† Commission to Chichester and others to survey the lands, &c., July 19, 1609, *S. P. Irel.*

‡ Davies to Salisbury, Aug. 28, 1609, *S. P. Irel.*

be treated with as much fairness as was compatible with the destiny which had been assigned to them, in order that as little room as was possible might be left for complaint.\*

CH. IX.  
1610.

When the summer of 1610 came, the Deputy once more proceeded to the north. He first went into Cavan, where he found that the Irish had procured the services of a lawyer from the Pale to urge their claims. This man argued that, in reality, the land was the property of the native holders, and asked to have the benefit of the proclamation which Chichester had published soon after his accession to office, in which a declaration had been made that the lands and goods of all loyal subjects would be taken under His Majesty's protection. Davies met him with the ready answer, that the Irish holdings gave no ownership which the law could recognise. To this was added the extraordinary argument, that they could not possibly be considered as having any hereditary title; in the first place, because 'they never esteemed lawful matrimony to the end they might have lawful heirs:' and, in the second place, because 'they never built any houses, nor planted any orchards or gardens, nor took any care of their posterities—both which they would have done if they had had estates descendible to their lawful heirs.' As a natural consequence, they had no lands to which the proclamation could apply.† Davies does not inform us what effect such miserable reasoning as this had upon the Irish; but there can be little doubt that the presence of the Lord Deputy and his troops was far more effectual than the logic of the Attorney-General.

He goes into Ulster in order to remove the Irish.

In Fermanagh and Donegal there was little remonstrance, but in the other three counties the Deputy found it by no means easy to effect his purpose. There is something very touching in the tone of the letter in which he gave an account to Salisbury of his difficulties. He writes as a man who sees that his wisest schemes

His difficulties.

\* Certain Considerations touching the Plantation, by Sir A. Chichester, Jan. 27, 1610. *S. P. Irel.*

† Davies to Salisbury, Sept. 24, 1610, *S. P. Irel.*, and printed in Sir J. Davies' Tracts.

## CH. IX.

1610.

have been ruined by the folly of others, but as one who is prepared to do his duty unflinchingly, and to make the most of that which others had done their best to mar. The natives, he writes, are discontented. They were nearly ready to have left their barbarous habits and to have submitted themselves loyally to the King. But the land which had been assigned to them was insufficient for their maintenance, and the golden opportunity of winning their hearts had been lost. Chichester felt deeply the injury thus done to Ireland, and was almost inclined to fancy that the blunder of the Commissioners had arisen from ill feeling towards himself.\*

Discontent in  
Ulster.

The effects of this disastrous policy were not long in manifesting themselves. So general was the discontent that Chichester found it necessary, upon his return to Dublin, to leave behind him double garrisons in the fortresses by which the Northern Province was commanded.†

1611.  
Progress  
of the  
colony.

During the course of the next year some progress was made in the colonisation of the country. Of the undertakers some indeed never came near the lands which had

\* 'The natives of these counties . . . are generally discontented, and repine greatly at their fortunes, and the small quantities of land left unto them upon the division, especially those of the Counties of Tyrone, Armagh, and Coleraine, who having reformed themselves in their habit and course of life beyond others, and the common expectation held of them (for all that were able had put on English apparel and did promise to live in towards, and to leave their creaghting) did assure themselves of better conditions from the King's Majesty than those they lived in under their former landlords, but now they say they have not land given them, nor can they be admitted tenants, which is more grievous unto them. I have both studied and laboured the reformation of that people, and could have prevailed with them in any reasonable matter, though it were new unto them, but now I am discredited among them, for they have far less quantities assigned unto them in those counties than in the other three; in which the Commissioners . . . were, in my opinion, greatly overseen, or meant not well unto me, for to thrust the servitors with all the natives of a whole county which payed the King near £2,000 rent yearly, into little more than half a Barony (as in Tyrone) was a great oversight, if not out of ill-meaning. If I speak somewhat feelingly in this particular, it is to your Lordship to whom I must and will appeal when I conceive I suffer wrong, in which I humbly beseech your Lordship to excuse me, for I have some reason to doubt the affection of some of those Commissioners towards me, though I never deserved ill at their hands, and I humbly pray your Lordship that I may not be guided by any direction of others, for they know not Ireland so well as I do, especially Ulster, nor do they wish better to the good and prosperity thereof, nor to the advancement of the King's profit and service.'—Chichester to Salisbury, Sept. 27, 1610, *S. P. Irel.*

† Chichester to the Council, Sept. 27, 1610, *S. P. Irel.*

been allotted to them, but there were others who entered heartily upon the enterprise which they had undertaken. When in the summer months Lord Carew, the former president of Munster, came over to report on the condition of the country, he found the busy sound of the forge and the mill in many a spot where such sounds were heard for the first time.\* Schools and churches were springing up. The City of London had taken in hand the settlement of Derry, which was now to be rebuilt under the name of Londonderry, and to give its name to the county in which it stood, which had hitherto been known as the County of Coleraine. To all appearance the change was for the better. But the disease was too deeply seated to be removed by such signs of outward prosperity. For the present indeed all was quiet. Feeling that resistance was hopeless, those among the Irish to whom lands had been assigned removed sullenly to their scanty possessions.† But the mass of the inhabitants remained in their old homes. They made themselves too useful to be removed, and by permission or by connivance the arrangement for the separation of the two races was broken through. But they remained to feel that they were in bondage to an alien race. They knew that they were despised as barbarians, by men who had robbed them of their lands. There was not an Irishman who plied his daily task for his English employer who did not cherish in his heart the belief that he and his were the true lords of the soil, and who did not look forward with hope to the day when the great O'Neill should return from his wanderings, and should give back the land to those to whom it of right belonged.

To keep in check the spirit of discontent was no light strain upon the resources of Ireland. Although after consultation with Carew, Chichester agreed to diminish the number of the troops, the expenses of the army alone far exceeded the revenue of the country, leaving the civil establishment still to be provided for.‡ The

\* Report, Jan. 29, 1611, Lambeth *MS.* 630, fol. 42.

† Chichester to Salisbury, Dec. 12, 1610, *S. P. Irel.*

‡ After the reduction, the army cost £35,810. The revenue of Ireland was £24,000. Lambeth *MS.* 629, foll. 19, 98.

CH. IX.  
1611,

CH. IX. English Exchequer had hitherto borne the burden of supplying the deficiency, but the English Government had now enough to do to find money to meet its own wants. In this difficulty it is not surprising that James consented to an arrangement which, however disgraceful it appears upon calm consideration, had at all events the advantage of providing money when it was most needed. It was suggested to him that there were many among the English gentry who would willingly pay considerable sums for the grant of a hereditary title, and that the money thus obtained might be used for the support of the army in Ulster. Accordingly James offered the title of Baronet to all who would pay the Exchequer £1080 in three annual payments, being the sum required for the pay of a hundred foot soldiers for three years. It was expected that there would be two hundred persons bearing the new title.\* Although, however, the number was made up before the end of the reign, it was not for some years that even half that number was obtained. Within three years £90,000 had been gained by the Exchequer in this manner, which though it did not amount to the whole sum required to defray the expenses of the Irish Government, was a considerable assistance in a time of difficulty.†

1612.  
Chichester  
raised to  
the Peer-  
age.

Early in 1612, Chichester, as a reward for his long and faithful service, was raised to the Irish Peerage, by the title of Baron Chichester of Belfast. As a more substantial acknowledgment of the King's favour, the lands forfeited by O'Dogharty in Innishowen were assigned to him. Grateful as he was for these signs of the King's recognition of his services, he would probably have been much better pleased if James had done him the still greater honour of submitting to be guided by his advice.

\* Patent, May 22, 1611, in Collins' *Baronetage*, iv. 289.

† Paid up to March, 25, 1614, £90,885. Sent into Ireland up to Michaelmas 1613, £129,013 (*Lansd. MS.* 163, fol. 396; compare *Lansd. MS.* 152, fol. 1). For the three years the expenses of the Irish army must have been about £106,000, so that though it was probably not literally true that quite all the money was expended upon foot soldiers actually in Ulster, it was at least spent upon troops available for the defence of the colony in the north.



It seldom happens that a Sovereign who rules over three kingdoms has an opportunity of committing three such enormous blunders as those by which James contrived to mark out the year 1610 as an epoch to which each part of his dominions might look back as to the commencement of a conflict which was to extend over more than a single generation. The breach of the great contract in England, the restoration of episcopacy in Scotland, and the removal of the Irish from their own lands in Ulster, were each of them the signals for a long protracted strife. Unhappily the misery which ensued did not, and could not rest upon the shoulders of the man whose fatuity alone had made it possible.

CH. IX.

1610.

Mistakes  
committed  
by James.

END OF THE FIRST VOLUME.

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